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Letter dated 27 October 2009 from the Chairman of the Security Council Committee established pursuant to resolution 1591 (2005) addressed to the President of the Security Council

On behalf of the Security Council Committee established pursuant to resolution 1591 (2005) concerning the Sudan, I have the honour to transmit herewith the final report of the Panel of Experts on the Sudan as requested by the Security Council in paragraph 2 of resolution 1841 (2008) (see annex).

The attached report was presented to the Committee on 6 October 2009, and was subsequently considered in the Committee on 20 October 2009, once it had been translated into all the official languages of the United Nations.

I will present to the Security Council shortly the Committee's views on the report, and any follow-up to the recommendations contained therein.

I would be grateful if this letter and its annex were issued as a document of the Security Council.

(*Signed*) Thomas **Mayr-Harting**
Chairman
Security Council Committee established pursuant
to resolution 1591 (2005) concerning the Sudan

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Annex

Letter dated 2 October 2009 from the Coordinator of the Panel of Experts on the Sudan addressed to the Chairman of the Security Council Committee established pursuant to resolution 1591 (2005)

On behalf of the members of the Panel of Experts established pursuant to Security Council resolution 1591 (2005) concerning the Sudan, I have the honour to transmit herewith the report of the Panel prepared in accordance with paragraph 2 of Security Council resolution 1841 (2008).

(*Signed*) Enrico **Carisch**
Coordinator
Panel of Experts on the Sudan established
pursuant to Security Council resolution 1591 (2005)

(*Signed*) Awni **Al-Momani**
Expert Member

(*Signed*) Abdelaziz **Abdelaziz**
Expert Member

Report of the Panel of Experts established pursuant to resolution 1591 (2005) concerning the Sudan

Summary

Most of the major armed actors in the Darfur conflict have continued to exercise their military options, violate the United Nations arms embargo and international humanitarian and human rights law, and impede the peace process.

The Darfurian population continues to be victimized by the effects of attacks and counter-attacks involving most of the armed movements that frequently lead to the disproportionate use of force by the Sudanese Armed Forces (SAF) and their auxiliary forces, and result in killings, injuries and displacements. Internally displaced persons continue to suffer from the inability to return to their homes and from acts of banditry, as well as from the lack of adequate humanitarian services, partly caused by the expulsion of international non-governmental organizations on 4 March 2009.

All parties to the conflict continue to fail to meet their affirmative obligations under international humanitarian and human rights law in areas under their control. The system of administration of justice of the Government of the Sudan has failed to provide redress to victims of human rights violations perpetrated in the context of the conflict in Darfur. Lacking adequate systems of justice, rebel movements, both signatories and non-signatories to the Darfur Peace Agreement, have also failed to uphold human rights and the rule of law in areas under their control. Perpetrators of violations of international humanitarian and human rights law are allowed impunity and victims are not compensated for their suffering.

The women of Darfur, roughly half of the population of the region, continue to suffer from all forms of gender-based violence. The Panel of Experts has conducted dozens of in-depth interviews and interacted with hundreds of women of all ages who have related the various forms of abuse and violence that they are experiencing and that highlight the failure of the Government of the Sudan and the parties to the conflict to protect women.

Almost all sides in the conflict have failed in their obligation to comply with Security Council sanctions and to cooperate with the monitoring efforts of the Panel of Experts. The Government of the Sudan, while demanding respect for its privileges as a sovereign State, also falls short in exercising transparency and accountability. Government officials often object to inquiries made by the Panel under its mandate and offer lip service while committing sanctions violations. Restrictions placed by the Government of the Sudan on the freedom of movement of UNAMID flight operations have had a direct impact on the Panel's ability to conduct some of its independent monitoring missions.

Representatives of the Government of the Sudan contend that there has been no need to seek prior approval from the Committee established pursuant to resolution 1591 (2005) in order to move military equipment and supplies into the Darfur region, as required by paragraph 7 of resolution 1591 (2005). The rationale offered is that all SAF troops and equipment currently documented in Darfur originated from there and have returned from a temporary deployment in South Sudan. The Government of the Sudan claims that it complies with the Comprehensive Peace Agreement when it

redeploys eight battalions to Darfur and when it seeks United Nations assistance to transfer an additional four battalions to Darfur.

Among the armed movements, the Justice and Equality Movement (JEM) is the most active violator of the arms embargo, carrying out repeated attacks, beginning in January against Muhajeriya and continuing in May against Umm Baru, Karnoi and other locations in North Darfur, as well as provocative activities in Kordofan during the month of August.

The Panel has assessed violations of United Nations sanctions in the context of the following four distinct conflicts that are undermining peace and security in Darfur:

- The fight over land and resources between nomadic and agrarian Darfurians
- Violence perpetuated as a result of lawlessness and impunity against the women of Darfur, as a particularly vulnerable group
- The war between armed opposition groups and the leadership of the Sudan and of Chad, in which JEM and Chadian armed opposition groups are the primary actors
- Cross-border attacks by the armed forces of Chad and of the Sudan

These four categories of conflict are not necessarily mutually exclusive, and they often combine violations both of the arms embargo and of international humanitarian and human rights law.

The Government of the Sudan remains intransparent and unwilling to account for its efforts to disarm and control its various auxiliary and formerly affiliated forces, in particular combatants commonly referred to as members of Arab tribes or as Janjaweed. Many individuals identified by internally displaced persons as Janjaweed continue to carry arms and engage in frequent violent behaviour against and harassment of internally displaced persons and, according to the Panel's findings, enjoy impunity for their offences. This remains one of the major reasons cited by internally displaced persons in describing their lack of physical security. The disarmament of the Janjaweed is one of the original demands made by the Government of the Sudan by the Security Council, in paragraph 6 of resolution 1556 (2004).

The Panel has, over a number of mandates, sought information from the Governments of many arms- and ammunition-producing States that would allow it to determine where in the chain of supply of arms and ammunition found and documented in Darfur violations of the Security Council sanctions may have occurred. Because many of the arms and ammunition documented in the Darfur region have been manufactured in China, the Panel has sought with particular interest the cooperation of the Government of China. In the middle of August, the Panel received some relevant information from China and intends to seek its continued cooperation.

In the aftermath of the issuance by the International Criminal Court of an arrest warrant against the Head of State of the Sudan, the Panel has received reports of severe violations of international humanitarian and human rights law, involving the harassment, persecution and torture of collaborators and individuals opposed to Government policies.

The crackdown by the security apparatus of the Government of the Sudan on the rights of Darfurians and their sympathizers to political affiliation, freedom of expression and peaceful assembly has manifested itself in violations of a catalogue of human rights and fundamental freedoms. These abuses, some of which have been documented by the Panel, were further exacerbated in the aftermath of both the Omdurman attacks and the issuance of the arrest warrant by the International Criminal Court, and have resulted in the departure from the Sudan of scores of activists and human rights defenders.

In the final weeks of the current mandate at least one Darfurian who has interacted with the Panel has been detained and interrogated by the National Intelligence and Security Service (NISS) and other security agencies of the Sudan.

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Abbreviations

AMIS	African Union Mission in the Sudan
AN	Alliance nationale
ANS	Agence nationale de sécurité
AU	African Union
CDR	Conseil démocratique révolutionnaire
CNPMIEC	China National Precision Machinery Import and Export Corporation
CRP	Central Reserve Police
DSS	Department of Safety and Security
EUFOR	European Union Forces in Chad and the Central African Republic
FPRN	Front populaire pour la renaissance nationale
FSR	Front pour le salut de la république
FUC/FUCD	Front uni pour le changement (démocratique)
GNU	Government of National Unity
HAC	Humanitarian Affairs Commission
JEM	Justice and Equality Movement
MINURCAT	United Nations Mission in the Central African Republic and Chad
NISS	National Intelligence and Security Service
NMRD	National Movement for Reform and Development
NORINCO	China North Industries Corporation
OHCHR	Office of the United Nations High Commissioner for Human Rights
PDF	Popular Defence Forces
RFC	Rassemblement des forces pour le changement
SAF	Sudanese Armed Forces
SLA	Sudan Liberation Army
SLA/AS	Sudan Liberation Army/Abdul Shafi faction
SLA/AW	Sudan Liberation Army/Abdul Wahid faction
SLA/FW	Sudan Liberation Army/Free Will
SLA/M	Sudan Liberation Army/Movement

SLA MM	Sudan Liberation Army Minni Minawi faction
SLM A	Sudan Liberation Movement/Army
SOGECT	Société générale de commerce, construction et transport
UAV	Unmanned aerial vehicles
UFCD	Union des forces pour le changement et la démocratie
UFDD	Union des forces pour la démocratie et le développement
UFDD-F	Union des forces pour la démocratie et le développement fondamentale
UFR	Union des forces de la résistance
UNAMID	African Union-United Nations Hybrid Operation in Darfur
UNHCR	Office of the United Nations High Commissioner for Refugees
UNMIS	United Nations Mission in the Sudan
WFP	World Food Programme

I. Introduction

1. In paragraph 3 (b) of resolution 1591 (2005), the Security Council requested the Secretary-General, in consultation with the Committee established pursuant to the same resolution, to appoint a Panel of Experts comprised of four members and based in Addis Ababa. In resolution 1713 (2006), the Security Council expanded the Panel by a fifth member. The Security Council has renewed the mandate of the Panel by resolutions 1651 (2005), 1665 (2006), 1713 (2006), 1779 (2007) and, most recently, 1841 (2008).

2. Operating under the direction of the Committee, the Panel, in accordance with paragraph 3 (b) of resolution 1591 (2005) is mandated:

- To assist the Committee in monitoring implementation of the measures in paragraphs 7 and 8 of resolution 1556 (2004), and paragraph 7 of resolution 1591 (2005); that is, provisions concerning the arms embargo;
- To assist the Committee in monitoring implementation of the measures in paragraph 3 (d) and (e) of resolution 1591 (2005); that is, provisions concerning targeted financial and travel-related sanctions;
- To make recommendations to the Committee on actions the Security Council may want to consider.

3. Moreover, in paragraph 3 (c) of resolution 1591 (2005) the Panel is identified as a source of information for the Committee on individuals who:

- Impede the peace process
- Constitute a threat to stability in Darfur and the region
- Commit violations of international humanitarian or human rights law or other atrocities
- Violate the measures implemented by Member States in accordance with paragraphs 7 and 8 of resolution 1556 (2004), and paragraph 7 of resolution 1591 (2005) as implemented by a state
- Are responsible for offensive military overflights

In response to this requirement the Panel will provide supplementary information regarding relevant individuals in a confidential annex.

4. By paragraphs 7 and 8 of resolution 1556 (2004), the Security Council imposed an arms embargo on all non-governmental entities and individuals, including the Janjaweed, operating in the states of North Darfur, South Darfur and West Darfur. By paragraph 7 of resolution 1591 (2005), the Council extended the arms embargo to include all parties to the N'Djamena Ceasefire Agreement and any other belligerents in the aforementioned areas.

5. The Council's directive to the Panel in resolution 1591 (2005), to coordinate its activities as appropriate with ongoing operations of the African Union Mission in the Sudan (AMIS) was subsequently updated in resolution 1779 (2007) with reference to the Panel's coordination with the African Union-United Nations Hybrid Operation in Darfur (UNAMID).

6. In resolution 1841 (2008), the Security Council also requested the Panel:

- To coordinate its activities as appropriate with the operations of UNAMID and with international efforts to promote the political process in Darfur
- To assess in its interim and final reports progress towards reducing violations by all parties of the measures imposed by paragraphs 7 and 8 of resolution 1556 (2004) and paragraph 7 of resolution 1591 (2005)
- To assess progress towards reducing impediments to the political process, threats to stability in Darfur and the region and other violations of the above-mentioned resolutions

7. The Panel commenced work for the current mandate simultaneously in New York and Addis Ababa on 11 December 2008. Owing to constraints described in the present report, the Panel had to delay travel to Darfur and commenced field work in Chad on 11 January 2009 and in the Sudan on 10 May 2009. The Panel was able to conduct its first substantial field work in Darfur on 20 May 2009.

8. The Panel made oral progress reports to the Committee on 27 January and 8 July 2009. Written progress reports were submitted on 2 March and 25 May 2009, and on 30 April 2009 the Panel submitted a written midterm report to the Committee.

9. The Secretary-General appointed the following experts to serve on the Panel: Abdelaziz Abdelaziz (United States of America), Awni al-Momani (Jordan), Enrico Carisch (Switzerland), Bernard Stuart Saunders (Canada) and Kuldip Sharma (India). Mr. Carisch was designated to serve as Coordinator of the Panel of Experts. Messrs. Saunders and Sharma resigned on 14 May and 2 June 2009, respectively.

10. The Panel would like to acknowledge the contributions of the following consultants: Younes Abouyoub, Sheerin Al Araj, Hanadi Ammari, Mike Buisson, David Huxford and Jonah Leff. These consultants supplemented the experts' work with the identification and tracing of arms and ammunition, the monitoring of activities of armed groups, the assessment of impediments to the political process and the identification of those who impede the peace process, and on gender-related issues, and provided assistance with the Arabic language.

II. Methodology and working principles of the Panel

A. General

11. On 7 January 2009, the Panel agreed on the following methodology and working principles for the conduct of its work.

12. Bearing in mind the provisions of its mandate, the Panel agreed that it must apply the principle of impartiality by making deliberate efforts to listen to and engage with all parties involved in the subject under investigation and that it would ensure that views and statements expressed by all stakeholders were documented and considered before it formulated its conclusions.

13. The Panel agreed to safeguard the independence of its work, particularly against any efforts to influence or undermine its impartiality or against the perception that it was affiliated with other investigative bodies.

14. While recognizing the importance of the principles of transparency and accountability in the conduct of its work, the Panel also recognized the importance of (a) the obligations relating to confidentiality agreed to by each expert in accepting the assignment; (b) protection of the integrity and safety of vulnerable informants and information provided by such informants; and (c) personal and collective accountability for the integrity of the Panel's work.

15. Some interlocutors agreed to share information with the Panel under the condition that their anonymity be preserved. The Panel will honour those requests throughout the present report by referring to "confidential interlocutors".

16. Finally, each member of the Panel recognized that the Panel's authority to conduct its work derived from the relevant resolutions adopted by the Security Council, which do not convey the power to subpoena evidence or witnesses.

B. Internal working arrangements

17. The Panel agreed to take decisions by consensus and by working towards conclusions acceptable to all.

18. The responsibilities and obligations of experts described in the present section of the report take account of the report of the Informal Working Group of the Security Council on General Issues of Sanctions (S/2006/997), specifically section V thereof, entitled "Methodological standards for reports of sanctions monitoring mechanisms (criteria and best practices)".

19. Systematic documentation of meetings and interviews and regular information-exchange among all Panel members were required. Archiving of relevant documents was integrated into the work of the Panel.

C. Evidentiary standards and due process

20. The Panel agreed that the evaluation of sources and source material must comply with the highest standards. Evidence collected must reach an acceptable threshold of reliability before being considered appropriate for inclusion in the Panel's reports. The identity of witnesses and informants must be fully explored, their background, motives and political-military positions understood, and their reliability ascertained. All reasonable attempts must be made to gather documentary evidence to support allegations.

21. Whenever the Panel formulates allegations pertaining to an individual, an organization or a State, a credible attempt must be made to offer an opportunity to reply and to clarify. Particularly important issues should be submitted to interlocutors in writing.

D. Interlocutors and travel

22. The Panel has sought to meet with all relevant representatives of the Government of the State of the Sudan and the Government of Chad, as well as with the regional and local authorities in Darfur. The Government of the Sudan reappointed General Mohamed Ahmed Mustafa Aldhabi as the Panel's official focal

point. The Panel also met with the leadership of the Sudan Liberation Army/Minni Minawi faction (SLA/MM), the Sudan Liberation Army/Abdul Wahid faction (SLA/AW), Sudan Liberation Army (SLA) Unity, JEM, other Darfur armed groups and Chadian armed opposition groups. The Panel sought to coordinate its work with UNAMID, the United Nations Mission in the Sudan (UNMIS) and the United Nations Mission in the Central African Republic and Chad (MINURCAT). It closely coordinated its efforts and frequently consulted with the joint United Nations/African Union (AU) mediator Djibril Bassolé and his staff. The Panel also consulted with the Governments of Qatar, the Libyan Arab Jamahiriya and Egypt and with the Arab League.

23. The Panel met and interacted with hundreds of Darfurians, including sheikhs, umdan, shartais and other leaders of local and internally displaced communities in the Darfur region and with the Darfurian refugee communities in eastern Chad. The Panel also interacted with combatants and their officers from all belligerent parties and with international observers. Particular emphasis was given to interviews with individuals directly involved in or affected by sanctions violations.

24. During this mandate, members of the Panel travelled to Austria, Chad, Egypt, France, Kenya, the Sudan, the United Arab Emirates, the United Kingdom of Great Britain and Northern Ireland and the United States of America.

III. Background

A. Introduction

25. Currently, the Panel distinguishes between four distinct conflicts in Darfur that at times appear to be intermingled with one another and that result in violations of the arms embargo, of international humanitarian or human rights law as well as in impediments to the political process:

(a) The fight over land and resources between nomadic and agrarian Darfurians;

(b) Localized violence perpetuated as a result of lawlessness and impunity with women as the most vulnerable group;

(c) The fight over the leadership of the Sudan and Chad by JEM and Chadian armed opposition groups;

(d) Cross-border attacks by Chad and the Sudan.

B. The fight over land and resources between nomadic and agrarian Darfurians

1. Overview

26. The Sudan is a mosaic country inhabited by various ethno-religious groups. Issues of race and ethnicity have become divisive markers and triggering factors for violent contestations over the scarcity of resources and lack of development, in particular in Darfur. Most Darfurians are Muslim, the Fur Sultanate having been one of the forces that spread Islam as a state religion.

27. In 2003, in a new eruption of violence, a collection of elements, mainly from among the Fur, Zaghawa, and Masalit tribes in Darfur, claiming economic, political and social marginalization, initiated an offensive against the Government of the Sudan. In an effort to thwart this growing opposition, the Government of the Sudan trained and armed thousands of mostly nomadic Darfurians who describe themselves as ethnic Arabs to form a counter-insurgency against the rebellion. On the fringes of this main contest, many fights ensued among groups of Zaghawa, Mima and Birgid.

Box 1
Clarification of the terms "Janjaweed" and "Tora Bora"

The parties to the conflict in Darfur are commonly referred to as "Arab tribes", "Arab militias", "Janjaweed" or "Africans", "Blacks" or "Tora Bora", all of which terms are unclear and often offensive. While the term "African" purports to describe people originating from the continent of Africa, the term "Arab tribe" negates the fact that these Darfurians are also "African". "Arabness" in Darfur is best viewed as a subjective definition: some Darfurians have accepted it for themselves, while others are comfortable with "Africaness" as their proper identity.

Depending on the political conjuncture, the affirmation by a group or a tribe of its "Arabness" or "Africaness" can result in concrete consequences and specific benefits. Landless Darfurian nomads and cattle herders ("Arabs") who lose their traditional grazing land to drought and the advancing desertification, may end up seeking pastures in the lands traditionally occupied by Darfurian farmers ("Africans").

Some landless Darfurian Arabs chose to join the counter-insurgency forces organized by the Government of the Sudan in order to gain access to land and enhance their socio-political status. Thus, these tribes are viewed by the African and Arab tribes who are beneficiaries of *hakoura* (a local Arabic term meaning "traditional system of collective ownership of land") as insurgents, outsiders or Janjaweed (Arabic for "bandits").

In the present report the terms "Janjaweed", "Arab tribes", "Arab militias" or "Africans", "Blacks" or "Tora Bora" will be used by the Panel in cases where its interlocutors use these terms. In the Panel's own terminology, the only distinction made will be between Darfurians who have joined "counter-insurgency forces" or "Government of the Sudan auxiliary forces" and Darfurians who are part of anti-Government "rebel movements" or "armed groups".

28. In 2003 and 2004, the Government of the Sudan used auxiliary forces such as the Central Reserve Police (CRP), Popular Defence Forces (PDF) and Border Guards to mobilize, train and arm landless Darfurians to repel the armed rebellion. In response to international pressure and the demands set forth in paragraph 6 of resolution 1556 (2004), the Government of the Sudan has repeatedly stated to the Panel that all Janjaweed have been integrated into their auxiliary forces.

2. Case studies of the current security situation in Darfur

29. In order to assess whether the land issue continues to dominate the current relationship between internally displaced persons and the members of the former counter-insurgency forces, the Panel visited the town of Kabkabiya, the rural and traditional farming area between Kabkabiya and El Fasher, and Mukjar during August 2009.

(a) Kabkabiya

(i) Security situation

30. Between 5 and 7 August 2009, in Kabkabiya, the Panel interacted with about one hundred people, including the commissioner, the head of police, internally displaced persons and their leaders, and local merchants. While most meetings were held informally in the market and in other public spaces, some vulnerable interviewees required certain measures to ensure their safety.

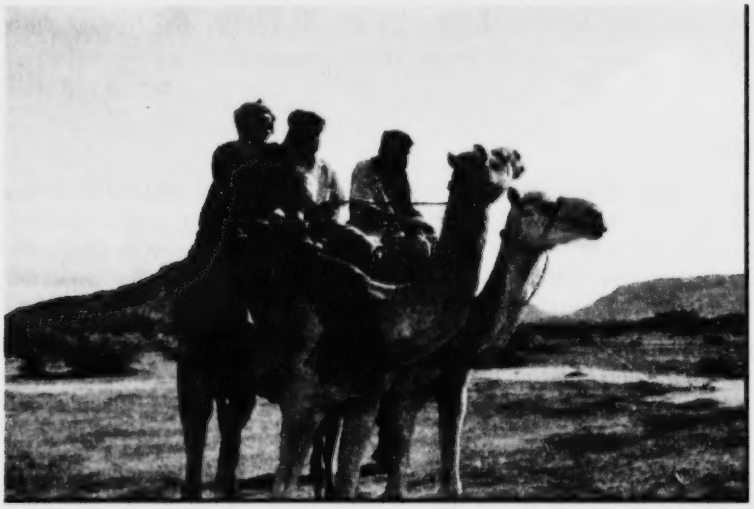
31. Many residents considered the town of Kabkabiya more secure since 2003, crediting this improvement to the new commissioner, Mohammad Hamed, who has cracked down on civilian possession of firearms within the city limits, and to daily UNAMID patrols of the area.

32. However, internally displaced persons also told the Panel that the streets were not safe at night and that residents became fearful on market days when armed Janjaweed arrive from the countryside. When the Panel visited the market, dozens of armed individuals wearing uniforms and a small number of armed individuals in plain clothes, all described by internally displaced persons as Janjaweed, were present.

33. The Panel was unable to ascertain to what extent the armed individuals were officially registered as members of the Government of the Sudan armed forces. Locals stated that wearing a uniform was not necessarily an indication of official membership of the Government of the Sudan armed forces.

34. A Fur tailor who sells uniforms to the Government of the Sudan armed forces explained that the Janjaweed acquired uniforms, but would often not pay for them. He also said that persons claiming to be members of the Border Guards bought any variety of military uniform. The Panel saw armed members of the Border Guards wearing green camouflage, dark green uniforms and ordinary civilian clothing.

Photo 1
Members of Arab militias outside Kabkabiya, one wearing a green uniform of the Border Guard



35. Merchants in the market, predominantly Fur and Zaghawa, complain of harassment by Janjaweed, who often demand cash and goods without charge from the shopkeepers. Merchants do not report these incidents because they perceive the authorities and the Janjaweed to be one and the same.

36. Internally displaced persons reported to the Panel that they were harassed, beaten and raped while conducting their livelihood activities outside the town.

(ii) Contests over land

37. The majority of residents in Kabkabiya are displaced Fur, who were driven from their homes in areas surrounding the town during the height of the conflict.

38. Internally displaced persons in Kabkabiya state that they have not returned to their villages and farms owing to real or perceived threats and harassment by new settlers and nomads who occupy their lands and who have made the countryside surrounding Kabkabiya inhospitable for returnees.

39. Some internally displaced persons who commute daily to farms on the outskirts of Kabkabiya complain of harassment. Women report that while they pursue the few livelihood activities available to them outside of Kabkabiya, they are frequently harassed or threatened by the Janjaweed.

40. Displaced farmers told the Panel that they kept two thirds of the proceeds from the sale of their harvest, giving the remaining one third to the landowners, whose tribal affiliations tend to vary.

41. Increasing sources of tension are augmented during the migration season by traditional conflicts of interest. During the farming and cultivation season, pastoralists, who are mostly from Arab tribes, drive their livestock from South

Darfur to the north. Frequent clashes occur when herders allow their animals to graze on the farmlands of internally displaced persons. These clashes have worsened because of the ubiquity of firearms concomitant with the conflict.

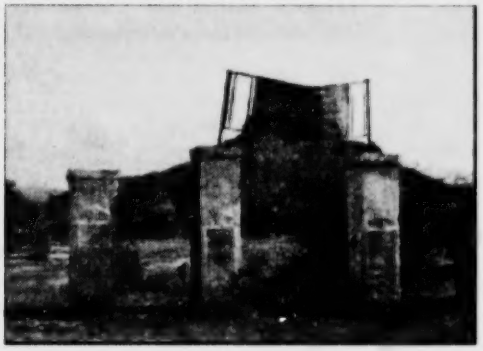
(b) The region between Kabkabiya and El Fasher

42. The Panel interacted with several dozen local people, internally displaced persons, members of Arab tribes, two members of the Border Guard and members of SLA/AW, all situated in the region between Kabkabiya and Tawila.

43. Villages and farms that were once inhabited by Fur are destroyed and vacant.

Photo 2
Kamunja village in August 2009

Photo 3
Sultan Terab Koranic School in Awni Jilow in August 2009



44. This area is now inhabited by camel herders, some armed and claiming to be Border Guards. The nomadic herders that now occupy the land there have not taken up farming.

45. Although internally displaced persons and United Nations sources reported to the Panel that pro-Government of the Sudan forces regularly set up arbitrary checkpoints on the road to collect taxes from travellers, the Panel did not encounter such checkpoints during its visit.

46. SLA/AW units maintain control in the mountainous area of Kaura, Jebel Marra, approximately halfway between Kabkabiya and Tawila. One week prior to the Panel's arrival in Kaura, the Government of the Sudan was reported to be concentrating forces in Golo and Rockero in eastern Jebel Marra, with 24 trucks carrying military equipment being delivered. Four SLA/AW soldiers stated to the Panel that they engaged in occasional clashes with the Janjaweed.

47. The most recent fighting took place in April 2009, when SLA/AW rebels clashed with CRP. The Panel discovered more than 70 rounds of spent 12.7 mm cartridges in the area. Some SLA/AW combatants related that Janjaweed defectors, namely *al-jundi al-mazloum* (the Oppressed Soldier) and *al-jundi al-mansi* (the Forgotten Soldier), had joined them in their fight against the Government of the Sudan.

48. The area between Tawila and El Fasher is under the control of the Government of the Sudan. Several groups of internally displaced persons in this area stated that they had returned voluntarily to engage in farming during the rainy season. Some live in small communities of internally displaced persons nearby, while others travel long distances from larger camps in El Fasher. While not complaining of harassment, many internally displaced persons expressed concerns regarding the potential for deterioration of the security situation. Many choose to remain in camps for internally displaced persons in and around El Fasher, where they receive education for their children and food from the international community.

(c) Mukjar

49. On 22 and 23 May and from 26 to 30 July 2009, the Panel interviewed the commissioner, the chief of police and local NISS and Humanitarian Affairs Commission (HAC) officials, as well as dozens of internally displaced persons, their sheikhs, shartai and community leaders. The Panel consulted extensively with confidential interlocutors and travelled in the surrounding area.

50. Mukjar, lies in the heart of West Darfur, on the road between Zalingei and Um Dhukum, where frequent columns of Chadian armed opposition groups and nomadic tribes traverse into and from Chad. In 2003, Mukjar and neighbouring Garsilla and Bindisi were deeply affected by the counter insurgency, in which a number of well-documented mass atrocities were committed. Many surrounding villages, such as Birgid, south of Mukjar, are, even today, a visible reminder of these attacks.

Photo 4
A destroyed Birgid village in August 2008

51. According to confidential interlocutors in the region, after those incidents the situation became calm to the point where many World Food Programme (WFP) and the Office of the United Nations High Commissioner for Refugees (UNHCR) missions could be carried out without armed patrols in the southern part of West Darfur. However, violence erupted in December 2008 in the Mukjar market when internally displaced persons burned down dozens of stores that were operated by their own women, and looted the local UNHCR compound.

52. Many local leaders claim that security has improved again after those incidents, while Government officials deny that those violent outbursts occurred. Confidential interlocutors, however, have reported to the Panel that the influx of a significant number of Arab Darfurians and the sudden re-emergence of Ali Koshib in Garsilla has annoyed the mostly Fur internally displaced persons in the local camps and is now causing renewed fear.

53. Internally displaced persons and their sheikhs related to the Panel daily harassments by individuals and groups they consider to be Janjaweed. Such incidents range from being merely accosted or chased away from public places to beatings and other forms of violence. Fur internally displaced persons reported that their women were harassed and their crops and other property stolen by the Janjaweed, and that herds of cattle were grazing on their farmland.

54. The Panel saw one herd of around 30 cows grazing in an area belonging to internally displaced persons. According to the internally displaced persons, the local police officers do not intervene in such incidents, even if a report is made against the perpetrators.

55. During the Panel's second visit to Mukjar, in August, it found that a significant proportion of internally displaced persons regularly commute to their fields in locations outside of Mukjar. Despite harassment, internally displaced persons continue to walk daily to work in remote areas, where they stay for several hours. However, none of them considered themselves ready to return voluntarily to the homes.

3. Lack of transparency in the disarmament of the Janjaweed

56. During the Panel's monitoring of internally displaced communities in North and West Darfur, an overwhelming concern expressed by internally displaced persons was the unchecked aggression by armed elements from Arab tribes, Janjaweed, Government of the Sudan forces and other belligerent tribes, and the high rate of harassment and of sexual and gender-based violence. These fears are exacerbated by the apparent impunity these forces seem to enjoy, the ever-present memories of most internally displaced persons of grave human rights violations committed against them only a few years ago and the fact that many individuals commonly referred to as Janjaweed have not been disarmed and continue to brandish their weapons.

57. The internally displaced persons' perception of the Janjaweed stands in stark contrast to the statements of the Panel's interlocutors from the Government of the Sudan who assert that there are no remaining Janjaweed, since they have all been integrated into SAF and Government of the Sudan auxiliary forces.

58. The Panel has attempted to verify those claims by obtaining updates concerning the integration process and the extent to which disarmament has been completed. The representatives of the Government of the Sudan have been unwilling to discuss this matter beyond a general statement that no Janjaweed exist at the current time. No detailed information regarding their disarmament has been offered to the Panel and no public records are available.

59. In the absence of detailed crime statistics, and in the light of the lack of full accounting for the disarmament of forces formerly identified as Janjaweed, the Panel cannot with certainty exclude the possibility that banditry and the Janjaweed

are symptoms of the same problem, which the Government of the Sudan has neglected to address.

C. Localized violence and sexual and gender-based violence

1. Background

60. Foremost in this section, the Panel would like to highlight sexual and gender-based violence as an important manifestation of the localized violence and as a subject that is often left unaddressed by the conventional treatment of the Darfur crisis. The Panel's monitoring has revealed that sexual and gender-based violence is rampant.

61. From the earliest stages of the original conflict between nomadic and agrarian Darfurians and the subsequent counter-insurgency, traditional mechanisms through which local violence used to be addressed were compromised and eventually destroyed. In the context of sexual and gender-based violence, the traditional arbitration involved males of the communities seeking retribution for each rape. The Government used to rely on native administrations to act as arbiters in disputes among local people. Sheikhs or umdas would mediate in conflicts, particularly with their counterparts in other tribes to resolve inter-tribal conflicts.

62. The inter-tribal fighting associated with the Darfur conflict has dislodged these traditional remedies and elevated males of some communities or tribes to a level of power that ensures them impunity for acts of sexual and gender-based violence. Community leaders have been undermined and lost their ability to mediate in conflicts. The males of victimized communities have lost the ability to seek redress and thus women are left without protection.

2. Monitoring of current cases of sexual and gender-based violence

63. The expulsion of the international non-governmental organizations on 4 March 2009 has eliminated an important independent source of information for the international community, since those organizations offered relevant services in relation to sexual and gender-based violence, such as women-friendly spaces, and medical and psychosocial support.

64. The Panel's own monitoring confirms that sexual and gender-based violence continues to be perpetrated throughout Darfur. The majority of such incidents occur in rural areas where security is insufficient. To attempt to assess the current plight of women, the Panel visited El Fasher, Kabkabiya, Masterei, Morniey, Mukjar, Saraf Jidad, Tawila and Zalingei, in July and August 2009, and documented more than 50 individual cases and received testimonies from hundreds of women in these areas.

65. In areas prone to sexual and gender-based violence women and girls restrict their movement to areas where they may relatively safely pursue income-generating activities. Those who are driven by need, however, sacrifice their safety and venture outside their safer boundaries, running the risk of abuse and rape.

66. Internally displaced persons reported to the Panel dozens of instances of harassment, violence and rape that occurred during the past two years while the victimized women pursued livelihood activities. In Hasa Hisa camp for internally

displaced persons in Zalingei, women reported that there are up to 35 incidents per week during the rainy season, when they engage in farming activities.

67. One case that demonstrates the frequency and severity of violence against women occurred north of Al Hamadiya camp in Zalingei. A woman who had been raped and suffered a gunshot wound in 2003 while fleeing her village, was again gang-raped and stabbed in the leg on 15 May 2009, while she was collecting firewood with a group of 20 women. The assailants, three armed men in khaki uniforms, inflicted genital injuries upon her and then left her bleeding. Following the incident, she spent 45 days in hospital recovering.

68. The Panel has documented cases of sexual assault committed against pregnant women and young girls. On 31 May 2009, in Kodo, West Darfur, four armed men wearing military uniforms chased and assaulted a group of women who were collecting firewood. As a result of these assaults a 12-year-old girl required medical treatment after she was raped.

69. According to residents and community leaders in Kabkabiya, women, who do most of the farming and collect firewood on the outskirts of the town, have been raped by individuals they refer to as Janjaweed. However, cases that are reported to the local police seldom make it through the judicial system of Kabkabiya since there is no judge there. The last time a permanent judge sat on the bench in Kabkabiya, was in 2007, before members of the counter-insurgency attacked the court house and later, in another incident, attacked the local prison and freed all their imprisoned relatives. Now, a judge is sent from El Fasher to Kabkabiya on an ad hoc basis to consider cases.

70. The local police in Kabkabiya refused to provide details of specific rape cases. While stating that women who work outside the town are exposed to the risk of being raped, the police also explained that the ethnicity of perpetrators is not recorded since the "incidence of rape in Kabkabiya is no different from that in other countries".

3. Support mechanisms

71. The Government of the Sudan established the State Committee on Sexual and Gender-based Violence to address sexual violence in Darfur, raise awareness on issues of sexual and gender-based violence in the Darfur region and also establish in police stations throughout Darfur units for combating violence against women and children. However, all these mechanisms have so far failed to change the status quo in Darfur; the State Committee lacks guidance and financial support, and the police units lack capacity and adequate female police representation, which cultural norms in the Sudan require.

72. After the expulsion of the international non-governmental organizations on 4 March 2009, internally displaced persons women who were already suffering from lack of adequate humanitarian services lost access to the medical and psychosocial support offered by those organizations. That support has not been replaced, either for lack of capacity on the part of the Government of the Sudan or because of distrust on the part of internally displaced persons women. One consequence is that no independent monitoring of localized violence and sexual and gender-based violence currently exists. UNAMID has not been able to fill this gap.

D. Fight over the leadership of the Sudan and Chad by JEM and Chadian armed opposition groups

1. JEM versus the Government of the Sudan and Sudan Liberation Army/Minni Minnawi

73. Since the beginning of 2009, JEM has targeted and attacked three Darfur population centres, Muhajeriya, Kornoi and Umm Baru, that were previously held by SLA/MM forces. In all three cases the Sudanese security services stepped in with defensive operations, counter-attacked and took control of the territories.

(a) Muhajeriya attacks

(i) JEM forces approach from Chad to Muhajeriya

74. According to accounts provided to the Panel by the JEM leadership, at the beginning of January 2009, Khalil Ibrahim and General Abdulkarim Shilloy Ginty mobilized their forces based in Wadi Harra, Muzbat, Jebel Moon and Buba in North Darfur in order to conduct a political sensitization programme among the local population in Muhajeriya and to encourage a sub-group from SLA/MM to defect and join the ranks of JEM. JEM officers have stated that orders were given not to use force during the operation in Muhajeriya except in self-defence, as this was a political mission, rather than an armed confrontation.

75. General Shilloy was present at all times during this operation and was the top-ranking military commander throughout. Khalil Ibrahim gave the order for the operation to take place but did not participate in it. The JEM operation in Muhajeriya also included two commanders, Arko Dahia and Bakhit Karima, who had recently defected from SLA/MM to JEM.

76. Other interlocutors who were present contradict the official JEM version of events and confirm that the combatants moved from the town of Um Jaras, on Chadian territory, into Darfur with their arms and other military equipment.

77. Among the JEM forces were a group of child soldiers, some of whom the Panel was able to interview when they returned to eastern Chad.

78. On 12 January 2009, United Nations observers identified around 40 fully armed JEM vehicles in two columns entering Muhajeriya after 4 p.m. Between 7 p.m. and 8 p.m., SAF aircraft were seen circling over the area of Muhajeriya, continuing into the night. On 13 January, JEM commanders met with SLA/MM commanders in the area of Muhajeriya and on 14 January, JEM entered Muhajeriya market, where they held a political rally.

(ii) SAF approach to Muhajeriya

79. According to the provisions of the Darfur Peace Agreement, SLA/MM, as a signatory to the Agreement could expect to receive military support from its co-signatory, the armed forces of the Government of the Sudan, to repel JEM.

80. JEM officers stated that on 15 January at 8.30 a.m., an alliance of signatories and non-signatories of the Darfur Peace Agreement, including SLA/MM, the United Resistance Front (URF), the National Movement for Reform and Development (NMRD) (led by the sanctioned individual, Gibril Tek) and some SLA field

command members, attacked the JEM camp outside of Muhajeriya. The JEM forces survived the attack and by 16 January 2009 had taken control of Muhajeriya.

81. General Ahmed Ali Othman Ali, Commander of the 16th Infantry Company of SAF, had mobilized elements from the El Fasher Advanced Command, the 16th Infantry Company in Nyala, Nyala Border Guards, the Popular Defence Forces (PDF) in South Darfur and the Maalia Al Agharba militia to move on Muhajeriya. These troops were supported by SAF air assets from El Fasher and Nyala.

82. The Panel has obtained General Ali's original orders in Arabic, marked "Highly confidential". These orders prove that, even before JEM had made its intentions clear, SAF had arrived fully prepared to "destroy the enemy with aviation forces based in Nyala" and "pursue and destroy the enemy in Muhajeriya and Adoulah localities" and "hunt him wherever he is found, and inflict the heaviest losses possible on enemy forces". Further, General Ali's orders to his troops stated:

- "No attacks on civilians and villages"
- "Prohibition on pillaging civilian properties or attacking their farms and honour"
- "Providing security and safety to civilians"

83. Box 2 contains an excerpt from an SAF internal intelligence report referring to the Maalia Al Agharba forces and thus proving that SAF was employing and arming militias to fight JEM in Muhajeriya.

Box 2

Confidential report No. 106

19 January 2009

From: Gharbiya, 63rd Brigade, Al-Daein operations

To: Nyala HQ, Operations

This is to inform you that our needs in ammunition are as follows:

200 RPG

200 mortar 60-75

100 mortar 82 mm

10,000 AK-47 rounds

6,000 Granov rounds

5,000 rounds for Doshka

This ammunition will cover our needs described in memo No. 1830, dated 20 January 2009, regarding the needs of the Maalia Al Agharba forces and memo No. 1526, dated 5 January 2009, regarding the needs of the 63rd Brigade. With regard to the establishing of security precautions, a full plan has been drawn up, the entire force is in a state of alert, and the organizing of forces from Al Agharba and the Border Guards and equipping them with 25 small vehicles is under way. A plan has been

put together to secure the town according to the decisions of the local security committee. We will keep you informed shortly as to the needs and the performance of the force. Kindly provide us with whatever quantities possible of what we have requested, as quickly and as discreetly as possible. Also, kindly provide us with the remaining balance of our monthly fuel and supplies.

For your information and action.

84. In line with the order given on 14 January, that "aviation forces based in Nyala and El Fasher destroy the enemy", Government of the Sudan aircraft commenced bombardments of JEM forces both inside and outside Muhajeriya. The Panel has documented civilian casualties that resulted from these bombings.

85. On 21 January 2009, a report sent from Shaeria Forces, Intelligence to "16th Company Nyala: Command and Intelligence" further requested the use of aviation assets in connection with JEM movements in multiple locations around Muhajeriya (see box 3).

Box 3
Confidential report No. 56

21 January 2009

From: Shaeria Forces, Intelligence

To: Nyala HQ, Operations, 16th Company Command, Operations

Nyala HQ, 16th Company Command, Intelligence

According to our information, there are 155 small vehicles present in the area of Muhajeriya. Details as follows: 30 vehicles inside Muhajeriya; 40 in Ardiba Kabsh, located 25 km north-east of Muhajeriya; 20 vehicles in Abu Dangal; 25 vehicles in Dar Shahid, east of Muhajeriya and 30 km from Shiab; 40 vehicles in Wadi Walgiet along the valley and 8 km away from Labado towards the area of Tournik.

Kindly activate the air force operations.

For your information.

(iii) SAF bombing of JEM and offensive military overflights in civilian areas

86. SAF aerial bombings resulted in the displacement of thousands of civilians, with initially over 6,000 civilians seeking safe haven at the UNAMID base in Muhajeriya. Following the Government of the Sudan bombing of the village of Matti and the withdrawal of JEM forces, a further 6,000 to 7,000 civilians moved into the UNAMID base in Labado. During this time, many more civilians left for camps for internally displaced persons in North Darfur and refugee camps in eastern Chad.

87. On 22 January, a total of 10 explosions resulting from aerial attacks were observed. At 4.25 p.m., two jet fighters flew over Muhajeriya from the west and explosions were also observed close to the village of Mausoula.

88. On 23 January, four explosions were heard after unidentified aircraft flew over Muhajeriya around 12.55 a.m. JEM commanders reported displacement of civilians from Abu Dangal to Muhajeriya and from Muhajeriya to Seleah, Al Daein and Nyala.

89. Subsequent aerial attacks by Government of the Sudan forces against JEM continued unabated and caused civilian casualties. Two rockets, reported as having been fired from a jet aircraft, exploded inside the North Camp for internally displaced persons at Muhajeriya, resulting in the death of a 6-year-old girl; two persons were wounded as well, 13 houses were destroyed and there was additional displacement of internally displaced persons from this camp. The Panel obtained graphic photographs of the casualties.

90. On 31 January at around 1.05 p.m., four bombs were detonated inside the North Camp, wounding one woman.

91. On 3 February, aerial bombardment started at 5.55 a.m. and a number of international observers counted a total of 30 bomb explosions throughout the day. JEM alleged that Government of the Sudan planes had targeted the water points near the villages of Shawa and Umsosuna, killing a 57-year-old woman, three children and many donkeys.

92. On 4 February, JEM stated that in response to repeated pleas from the international community it would withdraw from Muhajeriya; it did so and moved that day towards eastern Jebel Marra.

93. The Government of the Sudan has officially denied to the Panel that any clashes took place between JEM and its forces until after JEM left Muhajeriya.

(b) Fighting between JEM and SAF and SLA/MM after the Muhajeriya attacks

94. Between December 2008 and January 2009, units from the SAF 5th Brigade moved by road from El Obeid, North Kordofan to South Darfur, travelling via Nuhd, Lait and Haskanita to Muhajeriya in pursuit of the retreating JEM columns. In early February 2009, this brigade consisted of 452 soldiers and 12 officers in 13 Toyota Land Cruisers and 7 new military trucks, fully armed and supplied, and six T-85 tanks on heavy transporters.

95. On 12 February 2009, the SAF 5th Brigade, supported by attack helicopters and two Antonovs, attacked JEM in Douba El-Madrassa, 20 km east of Malam. Apparently, JEM successfully counter-attacked, seizing arms, tanks and other vehicles and equipment from SAF. The Panel has documented that, for the most part, the ammunition and vehicles captured by JEM are of post-embargo production.

96. A large JEM resupply convoy moving through Jebel Marra carrying fuel and reinforcements was involved in fighting with Government of the Sudan forces on 17 February 2009, 15 to 20 km north-west of El Fasher, and early in the morning of 18 February, east of Tawilla. Continued heavy aerial bombardments by SAF persuaded JEM to retreat to the north-western part of North Darfur.

97. During this retreat, two fights broke out in Dabbat Tuga and in Kolge, where SLA/MM Eastern Jebel Marra Command attacked the JEM convoy. JEM retaliated by burning down the headquarters of SLA/MM in Kolge.

98. Injured JEM combatants and some injured SAF prisoners received medical assistance in the hospital of Iriba, which is the JEM primary medical treatment facility but is based in eastern Chad. Some JEM combatants were moved for medical assistance to N'Djamena and others were sent abroad for treatment.

(c) JEM attacks against Kornoi and Umm Baru

99. Witnesses on the ground reported heavy fighting in May between JEM and SLA/MM in the towns of Furawia, Kornoi and Umm Baru. SAF delivered assistance to SLA/MM. There were reports of several casualties on all sides of the battle and that SAF conducted aerial bombardment of suspected JEM positions.

100. Representatives of the Government of the Sudan denied to the Panel that there had been casualties or bombardments in and around Umm Baru. According to SAF, on 24 May at 5.30 p.m. JEM forces withdrew to Umm Baru with 80 Land Cruisers and 20 Chadian artillery officers, and subsequently SAF forces pushed them further back, thereby regaining Kornoi and Umm Baru.

101. The Panel has been unable to confirm any of these reports owing to the unwillingness of the Government of the Sudan to assist logistically with a visit to the area. In August 2009, the Panel attempted to fly to Umm Baru to conduct investigations, but twice the UNAMID flight was denied permission by NISS to leave the El Geneina airport.

2. Chadian armed opposition groups versus the Government of Chad

(a) Overview

102. Between 4 and 7 May 2009, United Resistance Front (URF), an alliance of Chadian armed opposition groups, consisting of four columns and one command cell conducted a cross-border incursion into Chad from their bases in West Darfur. Following fighting in Amdressa and Haouiche and areas surrounding Am Dam in eastern Chad, the URF columns were defeated and retreated back into Darfur.

Box 4

Significant alliances of the Chadian armed opposition groups and their activities since 2005

In December 2005, the Front uni pour le changement (démocratique) (FUC/FUCD), formed under the leadership of Mahamat Nour Abdelkarim, attacked N'Djamena on 13 April 2006. When the attempted takeover of the Chadian capital failed, some elements of this group joined the Chadian security services.

On 22 October 2006, splinter groups of the Front uni pour le changement (FUC) under the leadership of Mahamat Nouri formed the Union des forces pour la démocratie et le développement (UFDD), which claimed to count over 3,000 combatants but conducted limited operations in eastern Chad.

Early in 2007 the Rassemblement des forces pour le changement (RFC) was formed by Timan Erdimi.

Before the January-February 2008 attacks by Chadian armed opposition groups against N'Djamena, the Unified Military Command was created to integrate leaders of as many movements as possible to participate in these attacks and to take command decisions jointly.

On 25 February 2008, the Alliance nationale (AN) was created under the leadership of Mahamat Nouri, integrating UFDD, the Union des forces pour la démocratie et le développement fondamentale (UFDD-F) led by Abdelwahid Aboud Makaye, the Front pour le salut de la République (FSR) led by Ahmat Hassaballah Soubiane and the Union des forces pour le changement et la démocratie (UFCD) led by Adouma Hassaballah Jedareb.

Following the fracturing of AN, a series of reunification talks in Khartoum led on 15 December 2008 to the formation of the Union des forces pour la résistance (UFR) under the presidency of Timan Erdimi and consisting of FSR, RFC, UFCD, UFDD, UFDD-F, the Conseil démocratique révolutionnaire (CDR) and the Front populaire pour la renaissance nationale (FPRN).

103. Article 5 of the UFR manifesto states that UFR is to "mobilize all the human, material and financial resources available to the signatory movements in taking decisive action to overthrow the current dictatorial regime" in Chad. Although the exact wording of the goal of these coalition groups has changed over time, similar statements can be found in the internal documents and intentions of all the groups mentioned in box 4.

(b) Activities of Chadian armed opposition groups on Sudanese territory

104. The Panel has monitored actors of Chadian armed opposition groups at attack sites in Darfur and has received from them detailed descriptions of their activities in the Sudan. The Panel has also documented the support they receive from the Government of the Sudan. This evidence contradicts Government of the Sudan representatives' denial that no support is provided, but confirms that elements of Chadian armed opposition groups are based within Darfur.

105. A UFR document entitled "Decision No. 005/PUFR/2009" establishes the existence and use of rear bases in Kokar and Mangaye. Kokar is located within the territory of Darfur. A committee of officials is set up whose task is (according to article 2 of "Decision No. 005/PUFR/2009") "to conduct an essential administrative and military restructuring of the elements at the base in view of moving them to the front".

(c) Logistical support from the Sudan

Box 5
Statement by the Chef d'état-major général of UFDD

The Chef d'état-major général of UFDD stated in a meeting with his commanders on 24 May 2007: "We receive supplies from the Sudan because we have revolted against Deby. We should maintain in good condition the arms that we possess at the moment, before expecting to receive any new delivery. We should not count on receiving everything from the Sudan. All the vehicles that we possess have become old because they lack maintenance. The Sudanese note with regret the disorderly movements of our vehicles. If the Sudan accepts that we stay on its territory let us comport ourselves with righteousness and dignity."

(i) Military materiel

106. The Panel has obtained access to UFDD internal documents that show a comprehensive centralized control system through which individual arms are registered, and their assignment to combatants recorded by name and serial number. Mounted armaments are recorded when fitted to vehicles. Ammunition is recorded, as well as its issuance, to sections and combatants.

107. The ongoing supply of embargoed materiel administered by the UFDD Chief of Defence Staff is evidenced in UFDD inventory lists which show that:

- On 26 November 2006, a stock of 50 cases of 7.62x39 mm ammunition, 50 cases of 12.7x54 mm ammunition and 36 missiles was provided
- On 13 June 2007, an increase of inventory to 165 cases of 7.62x39 mm, over 200 cases of 12.7 mm ammunition, as well as 226 cases of 7.62x54 mm ammunition, B-10, anti-tank missiles and 23 mm ammunition, was provided

and by late-2007 receipt for delivery of 1,494 AK-47-type assault rifles manufactured in 2004, "SAM-7" surface-to-air missiles already in the possession of the armed group, as well as notes about the need to request component parts and accessories for the missiles.

108. A 15 April 2009 written request to the Sudanese "Director of the Security Apparatus" from UFR President Timan Erdimi, shortly before the UFR incursions into eastern Chad in May 2009, specifies the need for 2,000 vehicles, 12,000 SPG-9 rockets, 30,000 37 mm rounds, 10,000 rocket propelled grenades and 4,800 107 mm rockets (see annex).

(ii) Technical training and assistance

109. According to UFDD records dated 23 July 2007, UFDD had 2,198 registered combatants, of which 1,402 were considered armed and operational, 575 were still receiving military training at the "training centre" and a further 66 recruits were based in Firni and Beida in "the interior" of Chad.

110. The Panel has testimony from members of Chadian armed opposition groups and video proving how live-fire exercises were held in training sites in West Darfur

late in 2008, shortly after UFDD received delivery of various types of equipment, including 12.7 mm machine guns, 106 mm recoilless rifles and 107 mm and 122 mm rockets. Training was provided by officers of the Chadian armed opposition groups, who provided specialized exercises for surface-to-air missiles and guided anti-tank missiles. Sudanese security personnel were present.

(iii) Vehicles

111. In May 2009, the Panel observed and documented many new Toyota Land Cruiser vehicles that had been used during the incursion into eastern Chad towards Am Dam.

112. Internal UFDD documentation, corroborated by interviews with combatants, describes the delivery of these vehicles to the Chadian armed opposition groups. On 15 September 2007, the UFDD Defence Commission confirmed receiving "10 new Toyotas". On 1 October 2007, an entry in a diary states "the 4th 'lot' of new Toyota vehicles was delivered. Eight arrived at the base and two were kept back by the Sudanese for the security escort."

113. Participants in these deliveries recounted to the Panel how they required a number of drivers to be ordered to Nyala or El Geneina with an escort of armed members of Chadian armed opposition groups to receive new vehicles. The new unarmed vehicles would then be driven back to the Chadian armed opposition group bases with an escort of Sudanese security and liaison personnel.

(iv) Finance

114. All Chadian armed opposition group budget documents available to the Panel show accounts held in Sudanese pounds. They include contracts with companies to supply fresh food to the troops, fuel for the vehicles, and other items such as phone cards, bread, milk, cigarettes, fuel, vehicles, sheep or even a camel bought for "the benefit of the central command". The payments vary from minor reimbursements of expenses to large cash payments for the acquisition of significant quantities of materiel. For example, 26 Toyota vehicles, obtained in three deliveries, some mounted with 12.7 mm, RPG9 or double-barrelled anti-aircraft guns totalled 25,315,000 DJ (Sudanese djinets), according to a memorandum dated 9 June 2007.

115. On 7 July 2007, Elhadj Hemchi Gourdem, the inspector general of UFDD, stated in a report to the vice-President of UFDD that the budget given to the treasury around that time totalled 294 million DJ.

116. Interviewees have stated that, at the end of 2008, the budget of the Alliance nationale was shared among some of its component groups when that alliance broke down. Those individuals and groups that have fallen into disfavour have openly complained about financial support being withdrawn from their subgroups by the Government of the Sudan if they did not follow the policies of the new alliance.

(v) Accommodation and medical care

117. Financing provided by the Government of the Sudan to Chadian armed opposition groups enables them to rent houses in El Geneina and in Khartoum, where their leadership has been observed spending months during reunification and alliance-building talks, and to work closely with the Sudanese security services.

118. Members of Chadian armed opposition groups have described to the Panel how their injured combatants are taken from El Geneina to Khartoum by the Sudanese security services on Government-provided aircraft in order to receive medical treatment in Khartoum hospitals. Convalescent combatants are given housing in Khartoum and are eventually returned to their West Darfur bases in Government of the Sudan aircraft and vehicles.

(vi) Control of personnel and command responsibility

119. Internal documentation of UFDD, RFC, AN and UFR and interviews with current and ex-members of those groups prove how command and control mechanisms are ensured in spite of the obvious propensity for political infighting of the Chadian armed opposition groups. UFDD documentation shows how command appointments are made at the highest level of the organization, in many cases by its president, Mahamat Nouri, himself. Permits for the travel of individual members or vehicles are signed personally by Commander Tahir Woodji.

E. Cross-border attacks by Chad and the Sudan

1. Aerial incursions by Chadian military forces into Sudanese territory

120. In a statement issued on 20 July 2009, the Secretary-General expressed deep concern over the increasing violence in West Darfur and along the Chad-Sudan border. The statement referred to reports that bombs had been dropped by Chadian aircraft in the vicinity of Umm Dkuhum in West Darfur on 16 July.

121. A document entitled "Chadian breaches of the Sudanese border" provided by the Government of the Sudan to the Panel lists 16 Chadian incursions into Sudanese territory between 6 October 2007 and 24 January 2008.

122. Following the incursions by Chadian armed opposition groups into Chad and the fighting around Am Dam in mid-May 2009, a number of bombings have been carried out in West Darfur. Those that the Panel was able to investigate are listed in table 1.

Table 1
Bombing in Jebel Sarrow

Date	*Alleged incursion*
15 May 2009	Witnesses reported to the Panel that at 10.20 a.m. three aircraft approached from the west, circled once and dropped three bombs to the east of Jebel Sarrow.
15 May 2009	Witnesses reported to the Panel that at 1.30 p.m. three aircraft approached from the west, circled once and dropped three bombs to the east of Jebel Sarrow.

Date	*Alleged incursion*
16 May 2009	Witnesses reported to the Panel that at 10.30 a.m. three aircraft approached from the west and dropped six bombs in Jebel Sarrow.

123. The Panel of Experts conducted a mission to these sites between 22 and 25 May 2009 and documented three fresh craters and assorted impact marks to the east of the village of Sarrow. At location N 11 45 24.41, E 23 17 19.28, the Panel collected shrapnel from two cases of air-dropped bombs of a design that the Panel had not previously found to be used by Sudanese forces in West Darfur.

Photo 5
Chadian bomb dropped in Jebel Sarrow

Photo 6
Bomb crater in Jebel Sarrow

124. Eyewitnesses located in Abéché, Chad reported to the Panel that on 15 May, around 7 a.m. local time, Chadian air force SU-25 jet fighters left with bombs under each wing and returned with no bombs at 9 a.m. A second flight took off at 11.15 a.m. on the same day, with bombs, and returned after two hours, again with no bombs. Given the two-hour time difference between eastern Chad and neighbouring West Darfur, the timing of these two sorties coincide with the reported bombings in Jebel Sarrow. The Panel has documentary evidence for these two sorties, including the fact that the Sukhoi jets left with bombs but returned without them.

125. In June 2009, the interim Minister of Defence of the Government of Chad announced during a press conference that Chadian forces had crossed over the Chad-Sudan border in pursuit of Chadian armed opposition groups retreating from Chad. The Minister announced that Chadian armed opposition group combatants, military vehicles and materiel at seven Chadian armed opposition group positions

inside Darfur had been destroyed. In public statements by President Deby and the Chadian Ministers for Foreign Affairs and of Defence, Chad asserted its "right to hot pursuit".

2. Incursions by Sudanese military forces into Chadian territory

126. The Government of Chad has provided the Panel of Experts with a document containing a chronology of alleged incursions by Sudanese forces dating back to the beginning of 1999, and detailing military attacks, bombing raids and assassinations by the Sudanese military and auxiliary forces. According to other information sources, additional incursions have occurred during the current mandate of the Panel of Experts.

(a) Attack on a EUFOR patrol

127. On 15 November 2008, a Sudanese MI-24 attack helicopter destroyed two vehicles of the European Union Forces in Chad and the Central African Republic (EUFOR) during an attack on a long-range patrol of European Union (EU) peacekeepers in eastern Chad. The EUFOR vehicles were near Birak on Chadian soil and the peacekeepers positively identified the aircraft involved as Sudanese military aircraft, according to the Panel's EUFOR interlocutors.

(b) Oure Cassoni and Kariari

128. On the evening of 17 April 2009, Chadian authorities in Oure Cassoni reported an aircraft circling over the village of Kariari and the sound of two explosions. The following day, the Panel verified these reports and interviewed witnesses who corroborated that at around 10 p.m. an aircraft had circled Kariari and that there had then been two explosions near the village, on the lakeshore. Kariari is adjacent to the refugee camp where over 20,000 Darfurians have sought refuge from the ongoing insecurity in Darfur. At the attack site, the Panel documented a bomb crater and shrapnel impact marks on the lakeshore, and collected numerous fragments of bomb shrapnel. Analysis of the fragments of bomb casing, fuse housing and the internal fragmentation portion of the bomb shows an exact correlation with the bombs that the Panel has viewed in other locations in Darfur following other air attacks carried out by forces of the Government of the Sudan.

IV. Violations of the arms embargo

A. Characteristics of embargo violations

129. During the Panel's monitoring, two characteristics whereby arms and ammunition can be distinguished have emerged:

(a) "Durable" items, which include all types of arms and vehicles that are typically designed and manufactured to have a lifespan of many years. These products are frequently used, refurbished and transferred to other States for another cycle of use, refurbishment and transfer. While many of the weapons found in Darfur were produced before the Security Council arms embargo was imposed, their transfer into Darfur may have taken place after the imposition of the embargo.

(b) "Consumable" items include all types of ammunition, fuses and fuel that can be used once only. Consequently, these items require fast resupply cycles in order for belligerents to remain battle-ready. Many of these items are of post-embargo production, suggesting a high likelihood that "consumables" found now within the Darfur region represent a violation of the embargo.

130. During its current mandate the Panel has observed that an increasing proportion of 12.7 mm, 7.62x39 mm and 7.62x54 mm ammunition, as well as 4x4 vehicles, in use by all parties to the conflict in Darfur was produced post-embargo, within the past two to three years. The growing prevalence of manufacture dates of 2006, 2007 and 2008 for military materiel implies that its importation into Darfur took place after the imposition of the arms embargo and demonstrates an increasing rate of violation of the measure.

131. In the following paragraphs the Panel frequently refers to the countries of origin of specific arms or ammunition. The Panel does not imply that the named producers or their States have committed arms embargo violations. In accordance with paragraph 4 of resolution 1841 (2008), the Panel is requesting assistance from many Member States and, accordingly, the purpose of identifying the source country is to disclose efforts made so far in identifying the origin and the chain of ownership for potential embargo violations. In many cases, the tracing of the chain of ownership is ongoing and the Panel would like to highlight the need for enhanced cooperation by Member States in order to determine the violators of the arms embargo.

132. Speedy responses to the Panel's requests for assistance would allow it more accurately to identify the country(ies) of origin and determine where in the chain of ownership diversion occurred.

133. The following sections provide detailed technical descriptions of arms embargo violations that the Panel has identified and documented during the current mandate.

B. "Durable" items

1. Arms and troop rotations

134. Most of the arms used in attacks in Darfur, ranging from 7.62 mm assault rifles to multiple-barrelled 23 mm anti-aircraft guns and launching systems for rockets and missiles, were manufactured before the arms embargo was imposed. The Panel has documented how JEM and the Chadian armed opposition groups, in their attacks, frequently transfer such weapons from Chad to Darfur, or from Darfur to Chad and back to Darfur. Similar observations of cross-border rotations of weapons from States neighbouring the Sudan into the Darfur states and back apply for SAF and the Government of the Sudan auxiliary forces. Examples are:

- JEM, under the command of General Abdulkarim Shilloy Ginty, illegally transferred large quantities of 4x4 vehicles mounted with multiple-barrel 107 mm rocket launchers and type 65 82 mm recoilless anti-tank guns, along with hundreds of JEM combatants from eastern Chad into North Darfur for its attacks against Muhajeriya in January 2009 and against Kornoi and Umm Baru in May 2009.

9-51420

- The 16th Infantry Company, under the command of SAF General Ahmed Ali Othman Ali, and the SAF 5th Brigade brought to their counter-attack against JEM in Muhajeriya large quantities of 4x4 vehicles, some mounted with 107 mm rocket launchers.
- UFR, under the leadership of Timan Erdimi, attacked targets in eastern Chad from West Darfur in early May 2009 using columns of Toyota Land Cruisers mounted with heavy and light machine guns and returned with much of this embargoed materiel back into West Darfur in May 2009.

2. Arms race between Chadian armed opposition groups and the Chadian National Army

135. Following the unsuccessful attempt by the Chadian armed opposition group to conquer the Chadian capital N'Djamena in February 2008, the Government of Chad acquired additional armoured vehicles, Sukhoi-25 jets and attack helicopters. Chadian armed opposition group leaders stated to the Panel that to match this increased military power they had an urgent need to procure more and better weapon systems. Subsequently, during the incursion into eastern Chad in May 2009, the Panel documented the improved weaponry shown in photos 7 to 10 below.

Photo 7
QLZ-87 automatic grenade launcher

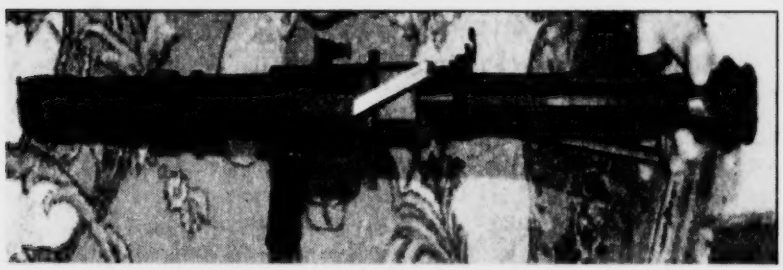


Photo 8
9M113 anti-tank guided missile system

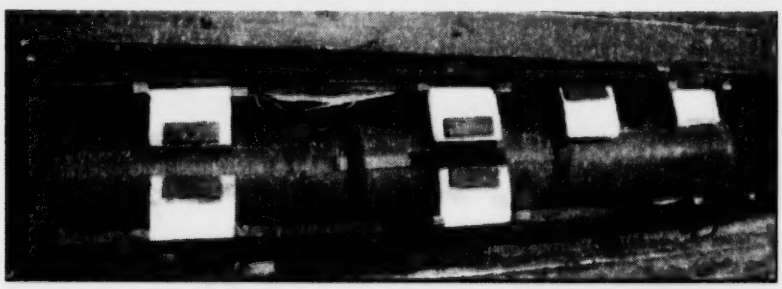


Photo 9
HN-5 shoulder-launched surface-to-air missile

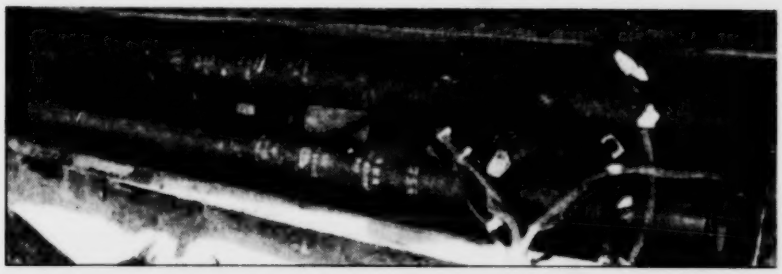
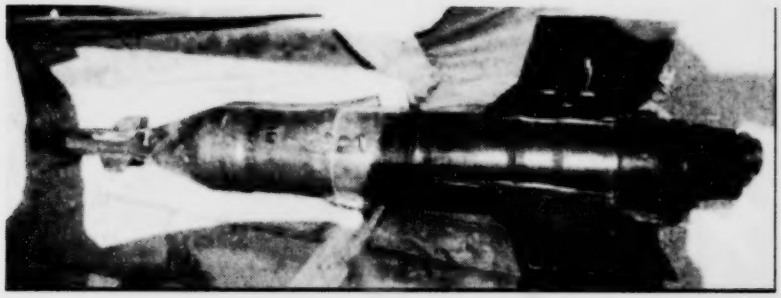


Photo 10
9M14M anti-tank guided missile



136. The Panel is cognizant that many of the arms and related equipment found in Darfur may have originally arrived in the Sudan as part of legitimate shipments to the Government of the Sudan, which is not prohibited from receiving arms in areas other than the Darfur region. In order to ascertain at what point in the trading chain these arms may have been transferred to the Darfur region in violation of the embargo, the Panel has been seeking information from a number of States. The Panel has been able to identify the source countries of two of these items and consequently assistance was requested from the manufacturer of the QLZ-87 grenade launcher, China North Industries Corporation (NORINCO) and the distributor, Poly Technologies Inc., and for the HN-5 surface-to-air missile from the China National Precision Machinery Import and Export Corporation (CPMIEC). The Panel has sought information on these launchers from a total of 25 Member States and has so far received an answer only from Bulgaria.

137. These anti-tank guided weapons provide the users with enhanced target acquisition capabilities. The HN-5 provides the users with a more effective weapon against air attacks and also forces United Nations aircrafts and helicopters to modify their flight patterns owing to the enhanced lethality that it provides an attacker with.

C. "Consumable" items

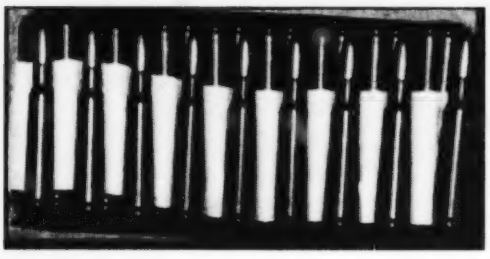
138. During the current monitoring period, the Panel of Experts found 12.7 mm and 7.62x39 mm ammunition and 7.62x54 mm rimmed ammunition in use among all

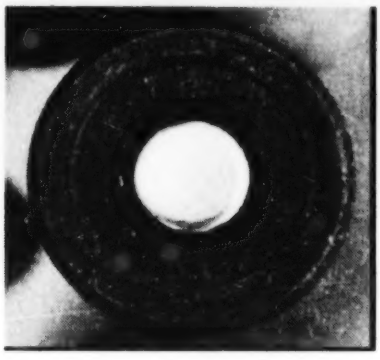
belligerent parties operating in Darfur. Because the years of manufacturing, 2006 and 2007 for some of this ammunition are post-embargo it is evident that the items have been imported into Darfur in violation of Security Council sanctions. All of these items appear to be of Chinese origin and the Panel is seeking assistance and information from the Government of China to establish production and sales data, as well as for assistance in tracing the trading chain into Darfur.

1. 12.7 mm ammunition

139. UFR used the 12.7 mm ammunition shown in photos 11 and 12 for its heavy machine guns during its attacks on eastern Chad in May 2009. Markings appear to indicate that the date of manufacture of this ammunition is 2007 and the manufacturer Chinese factory "11".

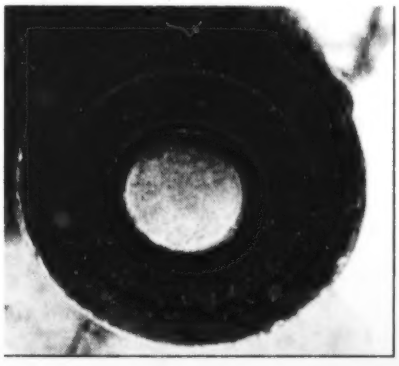
Photos 11 and 12
12.7 mm ammunition used by UFR, collected and documented by the Panel after May 2009 attacks





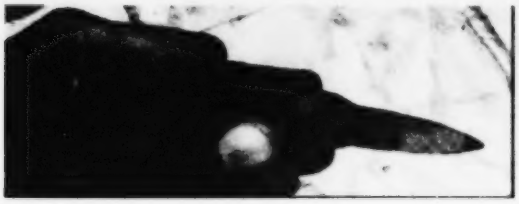
140. The ammunition shown in photos 13 and 14 is identical to that found with Chadian armed opposition groups, but was photographed in the hands of JEM in 2009 during and in between its attacks on Muhajeriya, Kornoi and Umm Baru; it was produced by Chinese factory "11".

Photos 13 and 14
12.7 mm ammunition used by JEM, collected and documented by the Panel after January 2009 attacks



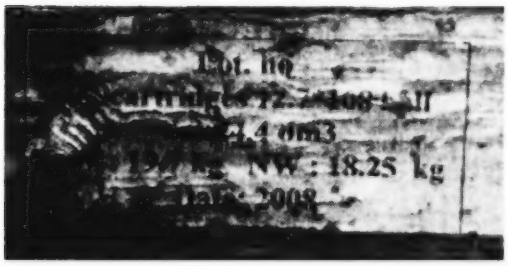
141. Ammunition from factory 41 manufactured in 2006-07 was documented during its use by JEM against SAF in Omdurman in May 2008 and in Muhajeriya, Kornoi and Umm Baru. Seventy rounds of spent ammunition shells produced in 2006 by factory 41 were found by the Panel in August 2009 in Jebel Marra after a fight between SLA/AW and CPR (see photos 15 and 16).

Photos 15 and 16
12.7 mm ammunition used by JEM, SLA/AW and CPR, documented by the Panel in Darfur



142. The ammunition produced in 2007 shown in photo 18 was used by JEM in Omdurman and by UFR against the Government of Chad in 2009. The boxed ammunition shown in photo 17 is of Chinese factory "41" 2007 production and was contained in boxes dated 2008.

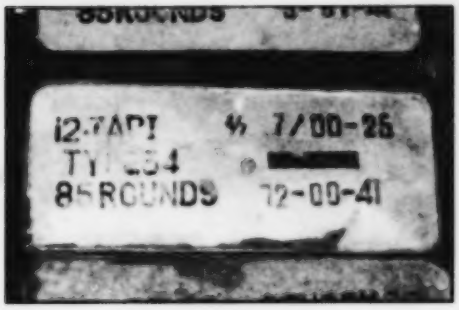
Photos 17 and 18
12.7 mm ammunition used by JEM and UFR, documented by the Panel in Omdurman and eastern Chad

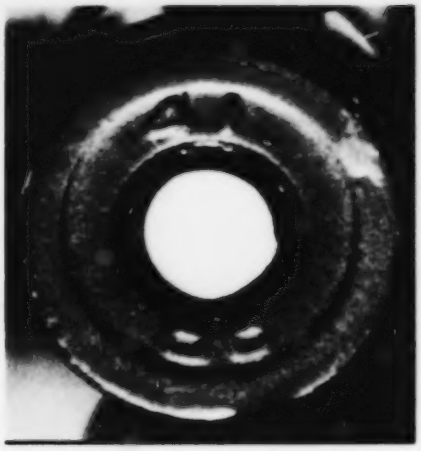


143. JEM and Chadian armed opposition groups used 12.7 mm armour-piercing incendiary rounds manufactured in 2000 in their attacks in 2008 and 2009.

Photos 19 and 20

12.7 mm ammunition API used by JEM and Chadian army opposition groups, documented by the Panel in Darfur and eastern Chad





2. 7.62 mm ammunition

(a) General

144. 7.62x39 mm and 7.62x54 mm rimmed ammunition is generally used with assault rifles and general-purpose machine guns. These are the two main calibres of ammunition used by armed groups operating in the Darfur region.

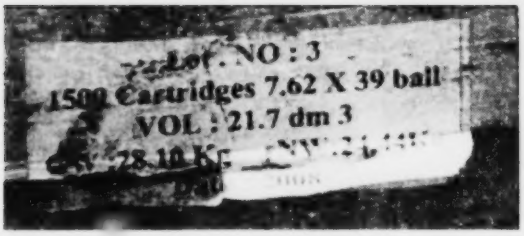
Photo 21

7.62 mm ammunition used by all belligerents in Darfur

(b) 7.62x39 mm ammunition

145. The packaging of 7.62x39 mm ammunition used by the Chadian armed groups in their attacks on Am Dam in 2009 is clearly dated 2008 on its lot marking. The production date of the ammunition inside is 2001, but the 2008 lot marking indicates a post-embargo transfer.

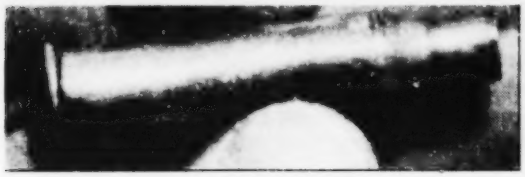
Photo 22
7.62 mm ammunition of 2001 production, but lot markings are from 2008

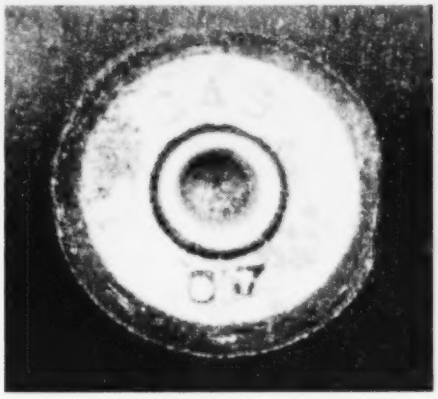


(c) 7.62x54 rimmed ammunition

146. The head stamp for the 7.62x54 mm rimmed general-purpose machine-gun ammunition shown in photos 23 and 24 indicates a post-embargo manufacturing year of 2007. This ammunition was documented with the Chadian armed opposition groups in 2009 and with JEM in 2008 and 2009.

Photos 23 and 24
7.62 mm ammunition used by JEM and Chadian armed opposition groups, documented by the Panel

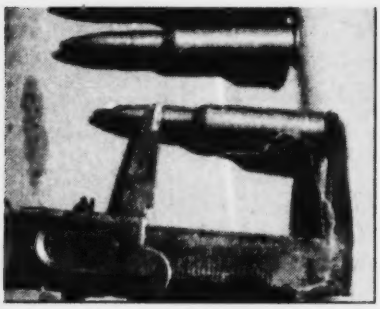




147. The Panel found the 7.62x54 mm rimmed ammunition shown in photos 25 and 26 to be omnipresent among Darfurian groups. For example, it was used by JEM in its attacks against Sirba, Silah and Abu Saruj in West Darfur in 2008. JEM units were also found to be supplied with this ammunition in Jebel Moon in 2008, in eastern Chad in 2009 and during the JEM offensive against Omdurman in 2008, and it was photographed in the hands of JEM in between its attacks on Muhajeriya and Umm Baru/Kornoi in 2009. The same ammunition was also found in use by the Chadian armed opposition groups in their offensives in 2008 against N'Djamena and during their incursion into eastern Chad and attacks on Am Dam in May 2009. The head stamps indicate that this ammunition was produced in 2001 by Chinese factory "71". The Panel has determined that China North Industries Corporation (NORINCO) and China Xinshidai Company are the manufacturers of this type of ammunition. To verify and confirm this, the Panel requested information and technical assistance from both the Government of China and from the companies to

assist in the tracing of this ammunition. The Government of China has informed the Panel that investigations on the ammunition in question are ongoing.

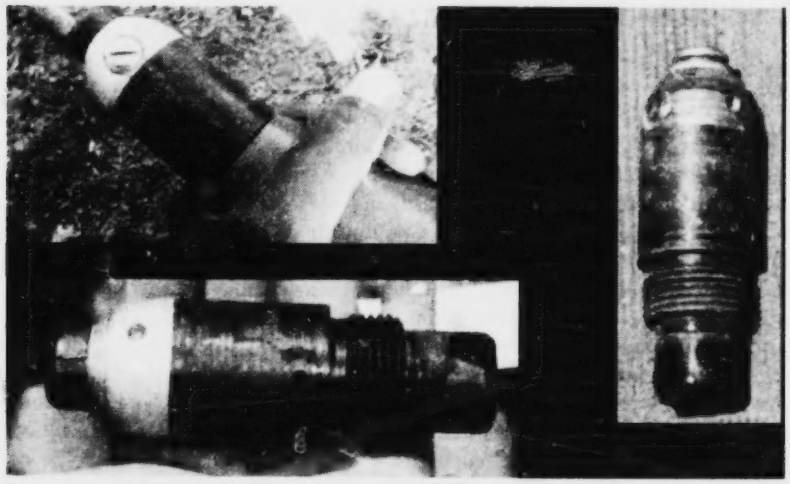
Photos 25 and 26
Most widely used 7.62 mm ammunition documented by the Panel in Darfur and eastern Chad



3. 107 mm rockets and MJ-1 proximity fuses

148. During the current mandate, the Panel found other MJ-1 proximity fuses for 107 mm rockets used by JEM and Chadian armed opposition groups in their respective attacks carried out since the beginning of 2009 (see photos 27-29). The majority of sealed and boxed MJ-1 proximity fuses for 107 mm rockets that the Panel documented during the current mandate appear to be of Chinese origin.

Photos 27, 28 and 29
MJ-1 proximity fuse used by JEM and Chadian armed opposition groups



149. In relation to previously documented MJ-1 fuses, the Government of China had stated in a letter to the Panel that they had been delivered to the Government of the Sudan in January 2004 in a legal pre-embargo arms transaction (see S/2008/647, para. 228).

150. The Panel had further documented in its previous report that JEM had fitted those fuses to their 107 mm rockets and fired them against Government of the Sudan forces, for example during its May 2008 attack on Omdurman.

151. In previous sections of the present report, the Panel has described numerous new incidents in which Darfurian armed groups employed 107 mm multiple-barrelled rocket launchers mounted on their "technicals", and tripod-mounted single-barrel 107 mm rocket launchers fitted to vehicles or simply used free-standing.

152. The Panel has contacted NORINCO and the Government of China in order to seek their assistance in tracing the chain of ownership of these newly documented fuses and determining who might be responsible for the sanctions violation that led to the diversion of those items to the Darfurian armed groups, in contravention of the arms embargo. To date, the Panel has received no information that would enable it to identify the violator of the embargo.

4. Militarized civilian vehicles

(a) General

153. The Panel has identified and attempted to trace the chain of ownership of well over 100 civilian vehicles. The overwhelming majority of these vehicles are Toyota pick-up trucks, which the Panel was able to document as a result of the following events:

- 53 vehicles were captured or destroyed by the Government of the Sudan during the attack by JEM on Omdurman in May 2008
- 6 vehicles were captured by JEM from the Government of the Sudan during fighting around Muhajeriya early in 2009
- 2 vehicles were captured by the Government of Chad during fighting around N'Djamena in February 2008

154. All the documented vehicles were modified and turned into "technicals", moving platforms on which militias, rebels and Government forces mount weapons, such as heavy machine guns and recoil-less rifles, and transport large numbers of combatants. Given the vastness of the deserts of the Darfur region, combatants depend on such modified Toyota vehicles for launching violent attacks and for committing serial violations of the United Nations arms embargo. This is true for all the armed groups operating in Darfur, including JEM, SLA/MM, SLA Unity, SLA/AW and the Chadian armed opposition groups, as well as for military, security and auxiliary forces of the Government of the Sudan.

155. Among the armed groups, the most prolific users of 4x4 vehicles in combat during the current mandate were JEM and Chadian armed opposition groups. The hundreds of vehicles each of these groups utilize are generally obtained in three ways: buying and importing vehicles through conventional commercial transactions;

hijacking and theft; and diversions from the production or trading activities of GIAD, the pre-eminent Sudanese manufacturer of automobiles.

(b) Commercial distribution of 4x4 vehicles

156. The Toyota Motor Company and some, but not all, of its regional distributors assisted the Panel in its efforts to identify possible violators of the embargo. The Toyota Motor Company prohibits the export and sale of its products to a party outside a distributor's territory, and the company stated in a letter to the Panel "we do not export truck vehicles, including Land Cruisers, to the Sudan except to respond to inquiries originally from international peacekeeping or humanitarian activities".

157. The Panel has determined that the official Toyota distributors based in Bahrain, Djibouti, France, Gibraltar, the Islamic Republic of Iran, Qatar, Saudi Arabia, Oman, the Syrian Arab Republic, the United Arab Emirates and the Sudan have sold used vehicles that have eventually ended up being deployed in Darfur by the belligerent parties. Some of these vehicles were trans-shipped or bought by persons residing in the following States: Algeria, Egypt, Nigeria, Saudi Arabia, the United Arab Emirates and Tunisia.

158. By far the largest number of vehicles that were documented as part of arms embargo violations in Darfur were sold by second-hand dealers and by the official Toyota dealership in the United Arab Emirates. Three requests by the Panel to the Al-Futtaim Motors Company, based in Dubai, United Arab Emirates, for information about the buyers of vehicles identified as "technicals" used by Darfurian armed groups were declined or replied to in a perfunctory manner. Partial information was received from Al-Futtaim only at the time of drafting of the present report, thus impeding the successful conclusion of the Panel's monitoring efforts.

159. The Panel has identified eight vehicles that were imported by the exclusive Toyota dealership based in Khartoum. Two of these vehicles were sold to the Ministry of Finance and National Economy of the Sudan, while six were sold to the Ministry of Interior Affairs of the Sudan. Another vehicle, which was imported into Saudi Arabia, was acquired by the Consulate of the Sudan in Jeddah, Saudi Arabia. In none of these instances has the Government of the Sudan provided information to the Panel explaining how these vehicles ended up being used by JEM during its attack on Omdurman.

160. The Panel has also determined the importance of the Toyota dealers in the United Arab Emirates as a source of vehicles for potential violators of the embargo based in Chad by analysing cargo manifests of relevant airline companies. For example, the cargo manifests of one company revealed that 90 Toyota Land Cruisers had been shipped from Fujairah airport to N'Djamena.

161. The Panel has identified exporters who have been found transferring vehicles from the United Arab Emirates into Chad, some of which ended up with JEM during their attack against Omdurman in May 2008. Al Aumdah Commercial, based in Dubai, is affiliated with the Société générale de commerce, construction et transport (SOGECT), based in N'Djamena. As the Panel documented in its previous report (S/2008/647), the chairman of this company is Abderaman Hassan Mahamat Itno. During the current mandate, the Panel again attempted to discuss vehicle importations to Chad by SOGECT. A few hours after this attempt, agents of the Agence nationale de sécurité (ANS) tried to detain one member of the Panel,

allegedly on orders from the head of this agency, who claimed to be acting on behalf of the President of the State. Another agent of the same State agency intervened to diffuse the situation and a senior manager of the agency apologized the following day for the incident.

162. The Panel discussed the vehicle exports from Dubai to Chad with Mahmat Issa, the head of Al Aumdah Commercial, in order to obtain a complete account and the technical specifications of the vehicles he had shipped to Chad. The Panel also sent a written request through the Government of the United Arab Emirates to Mr. Issa, to which no reply has been received so far.

(c) Hijackings and theft of 4x4 vehicles

163. Carjacking and theft of vehicles in Darfur and eastern Chad are the second most common means by which armed actors procure 4x4 vehicles. The Panel has identified 33 vehicles that were carjacked or stolen from international non-governmental organizations and United Nations bodies, either in Darfur or in eastern Chad, and were used by JEM for their attack against Omdurman. Of these, only one vehicle was returned to its proper owner, and a number of the owners are aware that their vehicles are still in use with belligerents, ranging from SLA Unity to the Government of the Sudan National Border Guard in El Geneina.

164. On 16 August, the police of Abéché, Chad arrested Abdou Moussa and 10 other individuals for stealing and hijacking at least 15 Toyota vehicles from the international community and from local merchants. According to the police, these men had dismantled the vehicles and smuggled the parts across the border to West Darfur.

(d) GIAD Automotive Industry Company

165. GIAD is a Sudanese conglomerate of companies engaged in the production of all types of vehicle, agricultural machinery, metal products, medical equipment, furniture and paint. According to its website, most of its products are either assembled or licensed in partnership with the following foreign companies: MAN Co., Renault Co., Hyundai Co., Nissan Co., Massey Ferguson Co., Eugin and Modan Co., Turkish and Iranian companies, and several other international companies. Some of the companies listed have denied to the Panel that they have any affiliation with GIAD, which raises implications about the disclosure standards that are being applied either by GIAD or the named companies.

166. Where reasonable implications exist for the Panel's monitoring of the arms embargo, it has contacted the relevant companies and invited them to provide information about their licensing or joint venture agreements with GIAD or its affiliates. In particular, the Panel wished to learn about any provisions in contracts with GIAD that might help to prevent products, services and intellectual property from being utilized in violation of the arms embargo.

167. Renault Trucks replied that its "contracts comply with the rules preventing embargo violation" and stated that it has "no formal contracts with GIAD". Likewise, Nissan confirmed to the Panel "that it is not engaged in any business with, and has never executed any contracts with GIAD Automotive Industry Company nor with its affiliates in the Sudan". Hyundai has so far not replied to the Panel's inquiry.

168. MAN cooperated fully with the Panel. The company provided the Panel with detailed statements about its business relationship with Sudanese partners, which began in 1999. Negotiations with GIAD commenced around 2001 for the delivery of completely knocked down (CKD) truck assembly kits. A first contract was signed in 2005 and three lots of MAN trucks of the civilian L90 model were delivered to GIAD in 2006/07.

Photo 30
MAN L90 truck found in Darfur in use by SAF

Photo 31
Weaponry mounted on a MAN L90 truck

169. MAN provided information regarding a truck that the Panel identified in Darfur being employed for combat by SAF units. MAN stated that that particular vehicle had been part of an April 2007 delivery to GIAD of a total of 790 white civilian L90/M2000 units. The Panel found this post-embargo-produced truck in a modified and heavily militarized form, fitted with a four-barrelled anti-aircraft gun. The militarization of these civilian vehicles was neither communicated to nor authorized by MAN. After the delivery in April 2007, the company has supplied no further products to Sudanese partners; its board of directors adopted this decision as formal company policy.

170. Photos 32 and 33, taken in Darfur, demonstrate the diversity of civilian truck models modified for military purposes or actual military trucks that are currently in use by SAF. Owing to the intricacies of truck manufacturing and licensing methods, and the various modifications, even experts of the industry have difficulty in properly identifying the source model of a particular truck encountered in Darfur. Inquiries by the Panel revealed that the trucks shown on photos 32 and 33 are branded as GIAD, but may have been originally manufactured by the Renault Truck company, MAN and possibly by a third company which had already modified them before they were supplied to GIAD.

Photos 32 and 33
GIAD trucks used by SAF in Darfur

171. In order to understand where sanctions are violated when either militarized versions of civilian trucks or actual military trucks, marked as GIAD, are transferred into Darfur, the Panel requires the assistance of both the private and public sector parties involved in these transactions. The most important interlocutor is the management of GIAD. A letter the Panel sent to the company was not answered, but referred to the Government of Sudan focal point, General Aldhabi. On the grounds that this inquiry should have been directed via the Government of the Sudan, he declined to provide any information as long as he was not receiving the request for it officially. Nevertheless, General Aldhabi stated that GIAD was producing civilian vehicles and that that had nothing to do with embargo violations.

D. Violations of the arms embargo by the Government of the Sudan

1. Illegal deployments of SAF and auxiliary forces in Darfur

172. During the most recent mandate, senior military SAF commanders informed the Panel that SAF had restructured its units based in Darfur in accordance with its

obligations under the Darfur Peace Agreement. The Western Military Command has been disbanded and replaced by SAF units headquartered in El Fasher, Nyala and El Geneina.

173. The current SAF presence in Darfur consists of three divisions, including infantry, mechanized and armoured units, supported by around a dozen helicopters (both attack and transport), three jet aircraft and three cargo aircraft. Cargo aircraft are also used for tactical operations against armed groups. Aircraft of commercial aviation companies are hired by SAF, NISS and auxiliary forces to assist with transporting troops, supplies and military materiel.

174. The armed Government of the Sudan security and auxiliary forces operating within Darfur consist of NISS, PDF, the Border Guards, the State Police and CRP.

175. The Government of the Sudan alleges that all Janjaweed militias have been integrated into SAF and its auxiliary forces but has never provided detailed accounting for this claim. In paragraph 6 of resolution 1556 (2004), the Security Council demanded that the Government of the Sudan disarm all Janjaweed militias and bring to justice Janjaweed leaders.

176. Throughout the current mandate, troops of the Government of the Sudan security and military services have been rotated in and out of Darfur without the Government having obtained the required approval from the Security Council Committee established under paragraph 3 (a) of resolution 1591 (2005), as stipulated in paragraph 7 of that resolution. The excuse given to the Panel is that all these rotations are the result of the repatriation of the troops, military equipment and supplies of eight battalions which had originated initially from Darfur and which had been temporarily based in southern Sudan. In compliance with the Comprehensive Peace Agreement, the Government has redeployed these battalions outside southern Sudan and brought eight of them back to Darfur. It still seeks UNMIS assistance to transfer an additional four battalions to Darfur that used to be based in South Sudan.

177. This claim by the Government of the Sudan is at least partly contradicted by the findings of the Panel concerning military materiel in use by SAF and its auxiliary forces in Darfur. Almost all the documented ammunition, vehicles and aviation equipment, and much other military materiel is of post-embargo production, which clearly also post-dates the deployment, if it ever took place, of SAF troops to South Sudan.

178. Furthermore, the Government of the Sudan interlocutor declined to exercise minimal transparency regarding deployments of SAF troops when the Panel requested, in a letter dated 6 January 2009, an accounting of SAF forces in Darfur.

179. Finally, during the military interventions by the Government of the Sudan in January and February against JEM in Muhajeriya, SAF transferred the 5th SAF Brigade, a brigade that was never identified as originally based in Darfur, from El Obeid, Northern Kordofan into the Darfur region in contravention of the embargo.

2. Illegal deliveries of military materiel

180. There is currently no continuous monitoring of overland deliveries into Darfur from other areas of the Sudan or across the international borders with Chad and the Central African Republic. MINURCAT and the United Nations Mission in the Sudan

(UNMIS) have no arms embargo monitoring mandate; UNAMID is tasked with such monitoring under paragraph 9 of Security Council resolution 1769 (2007), but so far has not been able to carry out this task.

181. Monitoring of deliveries of embargoed materiel by air took place sporadically in the short times and rare instances when Panel members themselves happened to be at airports in Darfur. The obvious lack of consistent and professional monitoring is exacerbated by the failure of the Government of the Sudan to provide the Panel with data on air traffic movements and to ensure the Panel's full and unfettered access to relevant airports and to the Sudanese civil aviation companies that are involved in delivering embargoed materiel.

182. Nevertheless, the Panel has been able to ascertain that the private companies referred to below have transported embargoed materiel.

3. Azza Transport Co. Ltd

183. Well over one hundred SAF troops were observed by the Panel on the morning of 19 May 2009 as they boarded an Azza ST-AKW aeroplane in Khartoum airport at 9 a.m. and disembarked at 10.15 a.m. in El Fasher airport from the same aeroplane. On 29 July 2009, the Panel observed military materiel being unloaded from Azza aircraft in El Fasher airport. On the same date, on the tarmac of the new airport of El Geneina, the Panel also observed an aeroplane of the Azza Aviation Company. At the time, the new El Geneina airport was closed to the public and was used only by SAF and special Government of the Sudan air traffic.

184. The Panel has attempted on multiple occasions to meet with Azza representatives in order to give the company and its representatives a right of reply regarding embargo violations documented during previous mandates. For this purpose, on 3 March 2009, the Panel sent a letter to Elageed A. Said, Commercial Director of Azza Transport Co. Ltd, offering him, his senior management colleagues and the members of the Board of the Azza Group the opportunity to respond. The letter was also submitted to Azza Transport through the Government of the Sudan and was hand-delivered to the company by the Panel on 10 May 2009. In the same letter, Azza Transport was also requested to disclose its management structure, as well as the 10 most significant shareholders of the company. To date, no reply has been received from Azza, its managers or shareholders.

4. Green Flag Aviation Company Limited

185. In a conversation with an official of Green Flag, the Panel received confirmation that the company conducts regular flights to Darfur on behalf of SAF. One specific flight the Panel documented was in the late afternoon of 29 July 2009, when Panel members observed military materiel being unloaded from a Green Flag aeroplane in El Fasher airport.

186. To provide a formal right of reply with regard to the Panel's documentation of arms embargo violations contained in its previous reports, the Panel sent letters on 3 March 2009 through the Government of the Sudan and directly to the company, as well as hand-delivering them on 10 May 2009. The letters were addressed to Green Flag Aviation, to its General Manager, Ahmed Satti Abdurahman Bagori, to its other senior managers and to the most significant shareholders, who have been identified

as Aissa Bakhit Idriss, Mohamed Kheir Omar al-Awad, Ali al-Nassih al-Kala and Ahmed Abdelrazeg.

187. The Panel also requested a meeting with the management of the company to ensure that it was aware of its right of reply. However, the management of Green Flag was unwilling to meet with the Panel. Subsequently, a representative of the Government of the Sudan informed the Panel that no such meeting would take place.

188. The Panel has learned, however, that Ahmed Satti Abdurahman Bagori, with whom the Panel had interacted during the previous mandate in his capacity as General Manager and most significant shareholder of Green Flag Aviation, is no longer with the company and now serves in a senior position with the Civil Aviation Authority of the Sudan.

189. The Panel has received no reply from Green Flag or any of its officers and shareholders.

5. Illegal deployment of SAF and Government of the Sudan aviation assets

(a) Attack and transport helicopters

190. In a 72-hour period in July 2009, the Panel saw 10 SAF MI-25 helicopters and two MI-17 helicopters in Darfur. The MI-25s (nos. 916, 929, 937, 939, 941, 942, 943, 945, 946 and 947) and the MI-17 helicopters (nos. 525 and 537) included some with identification numbers not previously noted by the Panel in Darfur.

191. In August, the Panel observed three more MI-25 helicopters (Nos. 923, 925 and 926) at various airports in Darfur.

(b) Jet aircraft

192. SAF has redeployed its jet aircraft from Nyala to El Fasher in 2009. Three Fantan jet aircraft with the numbers 203, 204 and 206 were confirmed by the Panel to be operational.

(c) Antonov aircraft

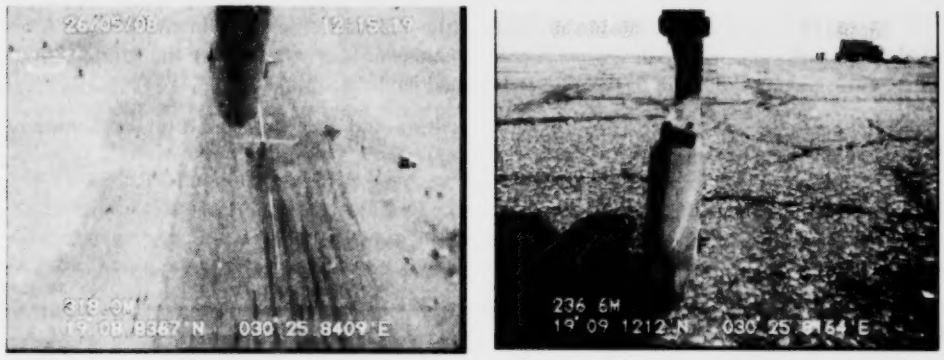
193. On multiple occasions in June, July and August 2009, the deployment of the SAF Antonov aircraft fleet was documented by the Panel in Darfur. The Panel has also collected over one hundred witness statements to the effect that those Antonov aircraft conducted aerial bombardments in and around Muhajeriya, Kornoi and Umm Baru, and near the Oure Cassoni refugee camp in Chad.

6. Embargo violations using unmanned aerial vehicles

(a) Evidence

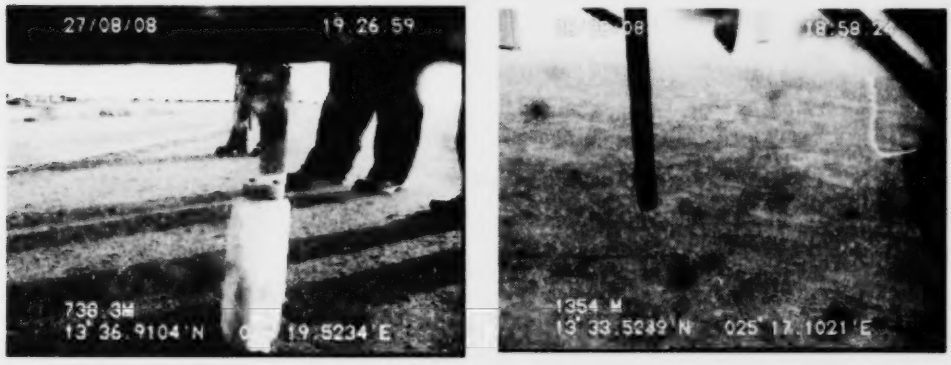
194. The Panel first reported the deployment of unmanned aerial vehicles (UAVs) to Darfur in its previous report (S/2008/647). The Panel has now obtained video footage taken from the UAVs in flight. The first section of a series of recordings the Panel has obtained shows a UAV in operation in northern Sudan. The geographical coordinates that are embedded in the footage along with the date and time indicate that the UAV was operated from Dongola airport by military personnel on 26 May and 4 June 2008 (photos 34 and 35).

Photos 34 and 35
Footage taken by UAV in northern Sudan, outside Darfur



195. The next video sequences show the UAV operating in Darfur on 27 and 28 August 2008. Photo 36 is an out-take of this video and shows that the UAV was operated by military uniformed personnel from El Fasher airport. Photo 37 shows a recording during a surveillance flight over SLA-controlled territory in Darfur.

Photos 36 and 37
Footage taken by UAV in Darfur



(b) Chain of ownership

196. According to documents made available to the Panel, the UAV was equipped with a video recorder called Flash Back 2 that has the serial number 2035. The manufacturer, Ovation Systems, based in the United Kingdom, had sold a large quantity of these recorders to the Mousaei Product Company, based in the United Arab Emirates. The individual who made the order on behalf of the Mousaei Product Company identified himself as R. Khoram and provided the company address: Bank Street No. 6, Lootah Building, Flat 117, in Dubai, United Arab Emirates.

197. Mousaei Product Company is a fictitious name, but the Panel identified the actual company as the Millennuim Product Company LLC[1] with a sales manager by the name of Mojtaba Sadegbi and a managing director by the name of Saeid Mousaei. This company is a commercially licensed enterprise in the United Arab Emirates; its principal shareholder and sponsor is a national of the United Arab Emirates by the name of Ayoub Mohammad Abdulla.

198. Details of transactions between Ovation and the Mousaei Product Company are provided in table 2.

Table 2
Transactions between Ovation and the Mousaei Product Company

Order sequence and amount due	*Payments by order of*	*Bank references*	*Shipping method and date*
28/4/2007 order for 20 8GB Compact Flash cards and 20 Flash Back 2 single recorders. Invoiced: $58 934.00	Payment: $58 934.00 Al Azhar Money Exchange, PO Box 30402, Dubai	Emirates Bank International PJSC Beniyas Street Deira, Dubai, United Arab Emirates	Federal Express on 17 May 2007
18/11/2007 order for 20 Flash Back 2 single recorders, 10 Flash Back 2 dual recorders, and 30 8GB Compact Flash cards. Invoiced: $92 600.00	First Payment: $20 228.00 Mousaei Electronics Trading LLC, PO Box 117570, Dubai	National Bank of Ras al-Khaimah, Ras al-Khaimah, United Arab Emirates	7/12/2007
	Second payment: $72 468.00 Mousaei Electronics Trading LLC, PO Box 117570, Dubai	National Bank of Ras al-Khaimah, Ras al-Khaimah, United Arab Emirates	
10/8/2008 order for 20 Flash Back 2 dual recorders and 40 32GB Compact Flash cards. Invoice: 13 188.00 UK pounds	Millennuim Product Company LLC, PO Box 117570, Dubai	Lloyds TSB Bank PLC, 11-15 Monument Street, London EC3R	26/11/2008 and 27/11/2008

199. A few hours after the Panel's introductory visit to the Millennuim Product Company on 25 June 2009, the administrative assistant explained to the Panel that Mr. Sadegbi and Mr. Mousaei had left for vacation in their home country, the Islamic Republic of Iran. They have apparently not returned to their offices since then.

200. The Panel has attempted to obtain information from Mr. Abdulla and has requested in writing assistance in this matter from the Government of the United Arab Emirates. To date, the Panel has not received a reply from either the Government of the United Arab Emirates nor from Mr. Abdulla.

[1] The name of the company as officially registered with the authorities of the United Arab Emirates is "Millenuim". In other documents it is spelled "Millenium".

201. The video recorders in question are built in a particularly rugged manner, and are priced accordingly, because they are designed for military or police use. Any seller of these items understands that they will not be used for civilian purposes. It is therefore unrealistic to assume that Saeid Mousaei was not aware of what the ultimate purpose of these recorders would be.

(c) Government of the Sudan ground transportation vehicles

202. In 2008, a Dongfeng truck of post-embargo production was documented and reported by the Panel in the Darfur region. The Government of China was asked for its assistance in tracing the chain of ownership of this truck. On 18 August 2009, the Government of China replied to the Panel that it would not provide information regarding this inquiry "since the truck is of dual-purpose material".

203. In contrast, the Panel has also documented MAN civilian trucks that were modified without authorization by the manufacturer and are now operating in Darfur in highly militarized versions. Once the MAN management realized that their dual-use equipment was being used for military purposes in Darfur the company decided to stop its business activities in the Sudan.

204. In Darfur, Sudanese security services and SAF use hundreds of Toyota Land Cruisers that have been converted into technicals, mounted with machine guns. The Panel has confirmed the use of such vehicles during SAF operations around Muhajeriya in 2009. In the period from 20 to 28 May 2009, Panel members counted SAF convoys with dozens of Toyotas on the roads of El Fasher on multiple occasions. In Nyala, on 22 May, the Panel saw 50 new Toyota Land Cruisers being driven by SAF. On 23 July, the Panel counted over 80 converted Toyota technicals, driven by SAF, Border Guard units and what locals described as "Janjaweed", crossing through El Geneina. On 22 July, the Panel observed over 100 technicals in use by Government of the Sudan forces, all of them late-model Toyota Land Cruisers that were manufactured after the imposition of the arms embargo.

7. Arms and ammunition

205. Representatives of the Government of the Sudan have prevented any access by the Panel to its military and security forces, including SAF, the Border Guards, the National Police, PDF and NISS. Consequently, the Panel's ability to monitor Government of the Sudan operational units in Darfur has been limited to whatever spontaneous monitoring opportunities presented themselves.

206. The Panel has provided detailed information regarding the widespread use of ammunition and arms by all armed actors, including SAF and Government of the Sudan auxiliary forces, in previous sections of the present report. The Panel has documented SAF units using 7.62 mm and 12.7 mm ammunition of post-embargo production.

8. Civil-aviation-related aspects of embargo violations

207. In its introductory letter to the focal point of the Government of the Sudan, dated 6 January 2009, the Panel requested daily traffic sheets showing all aircraft movements from and to Darfur from October 2007 until the end of the current mandate on 15 October 2009. Similar requests were made on multiple occasions during the current and past mandates.

208. On 14 May 2009, the Panel met with the Director General of the Civil Aviation Authority Sudan, Moh nmed Abd Alaziz Ahmed, and it was agreed that by 31 May all outstanding information would be delivered to the Panel. Mr. Ahmed also agreed to provide answers to the written requests the Panel had submitted to Azza Transport and to Green Flag Aviation and its senior managers and principal shareholders. To date, the Panel has not received any responses to those requests.

209. As already highlighted in paragraphs 304 to 306 of the Panel's most recent report (S/2008/647), the Government of the Sudan has, in a number of ways, managed not to facilitate the work of the Panel. This observation is particularly true where the Government is prohibiting the Panel from directly interacting with private-sector actors.

210. During the current mandate, the Panel has not received any daily traffic sheets for the airports of the Darfur states or for flights destined to Darfur from other Sudanese airports.

E. Non-governmental organization support to armed movements

1. Darfur-Hilfe and JEM

211. On 21 February 2004, the not-for-profit organization Darfur-Hilfe was founded in Münster, Germany. The purpose of this organization is to assist in the Darfur region "the population and hundreds of thousands of refugees who require urgent assistance with food and health care because of the civil war between the central government and resistance fighters". Abubaker Eltayeb Gurashi presided over the initial meeting, at which Adam Ibrahim Eltom was elected Chairman of the Board of Directors of Darfur-Hilfe. Both individuals are known to the Panel as members of JEM.

212. On its website, Darfur-Hilfe states that one of its major projects is the development of three schools for the refugees who are located in Tine and the neighbouring Am Nabak refugee camp. It provides extensive details of two operational school projects, called Tine 1, for 392 students, and Tine 2, for 344 students. The director for Tine 1 is Adam Shoggar; for Tine 2 no director is identified. Mr. Shoggar has frequently interacted with the Panel as the former Chairman of the SLA field command and since 24 April 2009 as Secretary for Political Affairs of JEM.

213. The Panel has attempted to confirm the existence of these schools and for this purpose has interacted with all the relevant United Nations organizations that are present in Tine and the local representative of the Government of Chad. Nobody was able to confirm that such schools exist.

2. JEM Website

214. JEM has been operating the website sudanjem.com since 5 May 2002 through a Netherlands website administrator. The signatory for the contract to operate this site is a K. Mohamed, who at the time gave the following address: 545 Gouverneurlaan, 2523 The Hague. His last known address is 7 Valenkamp, D-47053 Duisburg, Germany. In 2007, K. Mohamed changed his name to Mohammed K. Targoni. The last bill from the website administrator, for 2,087.86 euros, was paid in June 2009 by means of a cash deposit on a German

bank. With this form of cash transferral, no personal bank account information is recorded since no personal bank account is used.

V. Violations of international humanitarian and human rights law

A. Overview

215. The Panel has a mandate to provide information on those individuals who commit violations of international humanitarian or human rights law, or other atrocities. As a result of the limitations that have delayed the Panel's monitoring activities in Darfur for several months during the current mandate, the Panel has prioritized its monitoring and focused on cases it considers to be the most serious violations of international humanitarian and human rights law and where the connection to the United Nations arms embargo is particularly strong.

216. In the area of international humanitarian law, the Panel has focused on the following:

- Attacks against civilians
- Recruitment of child soldiers
- Failure to protect civilians

217. In the area of human rights, the Panel has prioritized the monitoring of the following rights:

- The right not to be subjected to arbitrary arrest and detention
- The right not to be subjected to torture or cruel and inhuman or degrading treatment or punishment
- The right to freedom of expression
- The right to effective remedy for serious violations of human rights

218. In the process of conducting its activities, the Panel visited Khartoum and Darfur several times, where it interacted with alleged victims of violations of international humanitarian and human rights law, eyewitnesses, representatives of the Government of the Sudan and of rebel movements, and international monitors. The Panel also travelled to Egypt and Chad, where it met with alleged Darfurian victims of human rights violations.

219. The cases examined by the Panel and discussed below are drawn from events that form part of the background narrative sections of the present report and represent far wider trends of systemic and institutionalized violations of international humanitarian and human rights law.

B. Violations of international humanitarian law

1. International humanitarian legal framework

220. In order to assess whether the facts established by the Panel constitute violations of international humanitarian law, it is first necessary to establish the type

and nature of the conflict, and to identify the applicable rules, provisions and norms of international humanitarian law.

221. It has been established that, since rebels exercise de facto control over some territories in Darfur, the conflict does not merely amount to a situation of internal disturbance and tension, riots or isolated and sporadic acts of violence. Rather, the requirements are met for the Darfur conflict to be considered a non-international armed conflict under common article 3 of the Geneva Conventions of 12 August 1949, namely, (i) the existence of organized armed groups fighting against the central authorities, (ii) control by rebels over part of the territory and (iii) protracted fighting. The conflict in Darfur, then, is considered for the purposes of international humanitarian law to be a non-international armed conflict.[2]

222. The fundamental principles underlying international humanitarian law are the principles of humanity, distinction, proportionality, military imperative and adequate precaution. The Sudan is a signatory to the four Geneva Conventions of 1949, but not to the Additional Protocols of 1977 thereto. All parties to the conflict in Darfur are bound by the provisions of the Geneva Conventions that regulate the means and methods of warfare in situations of non-international armed conflict, specifically article 3 common to the four Geneva Conventions. All parties to the conflict are also bound by other treaties, such as the Convention on the Rights of the Child, and by customary international law.

2. Attacks against civilians

223. During the current mandate, the Panel monitored violations of international humanitarian law that occurred during the attacks against Muhajeriya, Kalma and Wada'ah.

(a) Muhajeriya

(i) Observations and findings

224. In the context of the clashes in Muhajeriya (see paras. 74-93 above), by propelling its army across the Chad-Sudan border, through North Darfur and into the depths of South Darfur, JEM provoked SLA/MM and the Government of the Sudan, leading to hostilities that resulted in the killing, injuring and displacement of civilians.

225. Despite claims by JEM and SAF that preventive measures had been put in place against the targeting of civilians, the Panel has found that during the fighting in and around Muhajeriya there was disproportionate and indiscriminate use of force, for example aerial bombardments inside or near areas where internally displaced persons were located and civilian areas. The attack by JEM and counter-attacks by both the Government of the Sudan and SLA/MM, the subsequent battles on the ground between all parties and aerial attacks by the Government of the Sudan all resulted in the killing of scores of civilians, the injuring of hundreds and the displacement of thousands.

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[2] See Report of the International Commission of Inquiry on Darfur to the Secretary-General of the United Nations, pursuant to Security Council resolution 1654 (2004) of 18 December 2004.

Photo 38
Displaced Darfurians seeking shelter at UNAMID team site on 2 February 2009

(ii) Legal standards

226. All belligerents are bound to respect the rules of war, specifically in this case the obligation to differentiate between combatants and non-combatants, to ensure that incidental harm to civilians is not disproportionate and to take precautions in order to minimize loss of civilian life; and the prohibition on acts of violence directed at civilians, torture, rape, pillage, indiscriminate attacks, attacks on civilian objects and attacks on humanitarian organizations.

227. Moreover, the Rome Statute of the International Criminal Court defines certain breaches of international humanitarian law as war crimes, crimes against humanity or genocide.

(b) Kalma camp for internally displaced persons

(i) Background to the incident

228. In its previous report (S/2008/647, para. 279) the Panel referred to the attack carried out by security forces of the Government of the Sudan on the Kalma camp for internally displaced persons, situated 7 km south of Nyala, the capital of South Darfur. The Panel had already left the Sudan on the day of the incident and therefore was unable to conduct its own inquiries. During the current mandate, the Panel investigated the incident and interacted with survivors and witnesses, as well as with the Government of the Sudan and international monitors.

229. On the morning of 25 August 2008, a stand-off between NISS, SAF and police attempting to enter the Kalma camp and a crowd of internally displaced persons, including women and children, seeking to prevent them from doing so resulted in the death of 32 internally displaced persons, among them 10 women and 7 children, and injuries to 108 internally displaced persons.

230. According to eyewitnesses and the injured, some of whom are still under treatment in Khartoum, the Government forces opened fire in the air and then followed by shooting indiscriminately towards the crowd, killing and injuring

internally displaced persons, including women and children. A report[3] issued by the United Nations High Commissioner for Human Rights[2] after the incident corroborated the account of the eyewitnesses, citing excessive use of force on the part of the Government of the Sudan forces.

231. At a meeting with the Panel on 13 August 2009, the Government of the Sudan acknowledged the incident, stating that, after having been informed about elements loyal to the Abdelwahid Nour faction of SLA who were stockpiling arms within the camp, Government forces in possession of a search warrant attempted to enter and search the camp after inviting UNAMID police to accompany them during the search.

232. The Government, however, disputed the number of casualties, claiming that only one man and two internally displaced children were killed in that incident, and asserting that its forces had fired only after they had been fired upon from inside the camp, from behind the crowded internally displaced persons, and after a Government soldier was killed with a "spear".[4]

Photo 39
Casualties of the Kalma camp incident on 28 August 2008

[3] Eleventh periodic report of the United Nations High Commissioner for Human Rights on the situation of human rights in the Sudan; killing and injuring of civilians on 25 August 2008 by Government security forces; Kalma IDP camp, South Darfur, Sudan.

[4] Subsequent to press releases and public reports issued by the United Nations and human rights non-governmental organizations in the year since the Kalma incident, the Government of the Sudan has never disputed the figure of 32 casualties.

(ii) Observations and findings

233. The Panel concludes that the incident was a clear violation of the right to life. The excessive use of force that resulted in the killing and injuring of internally displaced persons violated other standards, such as the Guiding Principles on Internal Displacement,[5] Principle 10 of which prohibits direct or indiscriminate attacks or other acts of violence, including the creation of areas wherein attacks against civilians are permitted. The attack on the Kalma camp also violated the Code of Conduct for Law Enforcement Officials,[6] which establishes an international standard of protection of individual rights guaranteed under international human rights law. Article 2 of the Code obliges law enforcement officials to "respect and protect human dignity and maintain and uphold the human rights of all persons"; article 3 restricts their use of force to "only when strictly necessary and to the extent required for the performance of their duty". The Code also stipulates that no law enforcement official may "inflict, instigate or tolerate any act of torture or other cruel, inhuman or degrading treatment or punishment" (art. 5).

234. The Wali of South Darfur announced that a fact-finding commission would investigate the incident and the Minister of Justice stated that he would conduct his own inquiry. The Panel, despite repeated requests, has received neither the results of these alleged Government inquiries nor any information regarding perpetrators being brought to justice or reparations paid to the victims. Allowing impunity to the perpetrators and those responsible for the attack on the Kalma camp for internally displaced persons and the failure to provide compensation to the victims and their families, violate the victims' rights to effective legal remedy and to reparation. According to survivors, eyewitnesses and international monitors, compensation has yet to be provided to the victims or their families.

(c) Wada'ah

(i) Background to the incident

235. The attacks on Wada'ah should be viewed in the context of an ongoing tribal conflict that has persisted for decades between the Mima tribe, holding land rights under the *hakura* system, and the Zaghawa tribe, which moved from Dar Zaghawa southward in the aftermath of a drought that devastated most of sub-Saharan Africa, including North Darfur, in the early 1970s. By the early 1990s, disparity between the two tribes in wealth and resources led to bloody clashes that took the lives of many civilians. The Darfur conflict further polarized the community, with the Government of the Sudan and SLA/MM finding supporters and recruits among the Mima and the Zaghawa, respectively. In 2004, SLA/MM took control of the region south-east of El Fasher, including Wada'ah.

236. Both Mimas and Zaghawas became proxies for the ongoing conflict between the Government of the Sudan and the SLA/MM. The Darfur Peace Agreement, which acknowledged Wada'ah as being a territory under the control of SLA/MM, brought some peace to the area, but taxes imposed on the population by SLA/MM and acts of banditry, such as theft of livestock, led to perpetual clashes between the two communities and frequent confrontations between SLA/MM and the Government of the Sudan. Despite the fact that both tribes are of African origin, the

[5] E/CN.4/1998/Add.2, annex.

[6] General Assembly resolution 34/169, annex.

Zaghawas call the Mimas "Janjaweed" and the Mimas call the Zaghawas "Tora Bora".

237. On 8 February 2009, clashes took place in Wada'ah between members of the SLA/MM forces and armed militia from the Mima community resisting attempts on the part of the former to increase taxation on the Mima and recruit from among them. The initial clashes resulted in the killing of an SLA/MM commander, reportedly of ethnic Mima affiliation. On 10 February, SLA/MM, in retaliation, launched a massive attack on Wada'ah. The attack resulted in a number of deaths and injuries, the destruction of nearly half of the town, including the town's electric water pump, market and school, and the looting of the local health centre. On 11 February, the Government of the Sudan forces, including CRP, attacked the SLA/MM forces on the outskirts of Wada'ah and took control of the town for the first time in five years. SLA/MM retreated to Dar Alsalam, one of a few towns that remain under their control.

Photos 40 and 41
Burning of houses in Wada'ah belonging to Mima tribe members

238. A Government of the Sudan/UNAMID joint assessment mission, dispatched to Wada'ah on 12 February, evacuated several of the wounded civilians, including a young woman who had been shot in the leg. An exact account of the numbers of dead and injured was not available at the time of writing of the present report. According to eyewitnesses interviewed by international monitors, the SLA/MM forces consisted of about 500 fighters, including some commanders from groups that are non-signatories of the Darfur Peace Agreement.

(ii) Observations and findings

239. The Panel concludes that SLA/MM, which had the obligation under the Darfur Peace Agreement to maintain law and order in all areas under its control, including Wada'ah, has violated basic human rights norms. The excessive use of force that resulted in the killing and injuring of civilians in Wada'ah also violated the Code of Conduct for Law Enforcement Officials.

240. The Panel has requested SLA/MM to provide its account of the events and actions on its part to bring those responsible for attacks against the civilians of Wada'ah to justice and compensate the victims and their families. Allowing

impunity to the perpetrators of human rights violations and failure to provide compensation to the victims and their families, violate the victims' rights to effective legal remedy and to reparation.

3. Recruitment of child soldiers by armed groups and forces in Darfur and eastern Chad

(a) Use of child soldiers by Governments

241. Despite efforts on the part of the international community to help eliminate the practice of recruitment of child soldiers in the Darfur region and in eastern Chad, Panel investigations indicate that the practice continues unabated.

242. The Government of Chad has already acknowledged the presence of child soldiers within its armed forces and has pledged to end the practice.

243. The Government of the Sudan has not been transparent concerning the disarmament and reintegration of Janjaweed, as demanded by Security Council resolution 1556. Therefore, the Panel cannot confirm whether child soldiers formerly serving with these militias may have been integrated into CRP, the Border Guards and PDF, which all have children under the age of 18 among their ranks.

(b) Use of child soldiers by JEM

244. The JEM leadership contests the Panel's findings in its previous report (S/2008/647) and claims that owing to "very few cases of mistaken recruitment, some children might have fallen through the Movement's screening system". However, the JEM leadership does admit that it engages in recruitment drives in eastern Chad; and it was not able to provide evidence of adequate mechanisms that prevent the recruitment of children.

245. One example of aggressive JEM recruitment drives is the following speech given by a senior JEM official to the population of Iriba and refugee camps on 9 July 2008:

> Every person who plans to get married should renounce it to join us, every person who plans to travel should renounce it for the benefit of the rebellion, every person who wants to circumcise his children should renounce it to fight for our country, every person who would like to organize his brother's funeral should renounce it to join us, because we all have the objective of toppling the dictatorial regime of Mohamed El Bashir.

246. Table 3 shows individuals under the age of 18 whom the Panel has noticed on JEM recruitment lists and who have participated in recent fights.

Table 3
JEM child soldiers

Combatant[a]	*Date of birth*	*Date of recruitment*	*Battles*	*Age at recruitment*	*Combatant*[a]	*Date of birth*	*Date of recruitment*	*Battles*	*Age at recruitment*
1	1987	2003	Kalees	16	28	1990	2004	8 battles	14
2	1988	2003	Kalees	15	29	1988	2005	Um Sader; Kalees; Tbeesha	17
3	1988	2003	Kalees	15	30	1988	2005	Kalees; Thabeeth	17
4	1990	2003	Kalees	13	31	1989	2003	Karkay; Um Sider	14
5	1986	2003	Kalees	17	32	1989	2004	Jumrat; Al Sheikh village	15
6	1988	2004	Karkay; Um Sider	16	33	1989	2005	Um Sider; Kolkol	16
7	1988	2003	Tameesh village	15	34	1989	2003	Um Sader; Kalees	14
8	1989	2005	Tameesh; Kalees	16	35	1989	2003	Um Sader; Jumrat Al Shaeikh	14
9	1987	2004	Haleemah village	17	36	1989	2003	Um Sader; Jumrat Al Shaeikh	14
10	1987	2003	Haleemah village	16	37	1989	2003	Kalees; Thabeeth	14
11	1993	2003	Karkay; Rahfad Tatri	10	38	1988	2003	Kalees; Jarjeerah	15
12	1986	2003	Jaleebah; Kalees village	17	39	1989	2003	Kalees; Jarjeerah	14
13	1987	2004	Um Sader; Jumrat Al Shaeikh	17	40	1988	2003	Kalees; Tameesh	15
14	1989	2005	Teesh; Jumrat Al Shaeikh	16	41	1988	2003	Teetha; Kalees	15
15	1987	2003	Mot mountain; Teesh	16	42	1989	2003	Kalees	14
16	1989	2003	Mot mountain; Um Silal	14	43	1987	2003	Kalees; Um Sider	16
17	1988	2004	Kalees; Al Sheikh village	16	44	1989	2003	Kalees; Abu Khamra	14
18	1989	2004	Kalees; Thabeeth	15	45	1987	2003	Kalees; Um Sider	16
19	1988	2004	Karkay; Teesh	16	46	1987	2003	Kalees; Tabeesha	16
20	1989	2005	Um Sader; Jumrat Al Shaeikh	16	47	1987	2004	Kalees; Tabeesha	17
21	1992	2006	Abu Jaber; Jumral Al Sheikh	14	48	1993	2007	Kalees; Tabeesha	14
22	1996	2005	Thabeeth	9	49	1988	2004	Karkay; Qadar	16
23	1989	2003	Tabeesha; Jumret Al Sheikh	14	50	1986	2003	Kalees; Karkay	17
24	1989	2004	Um Sader; Kalees	15	51	1989	2004	13 battles/ last Um Sider	15
25	1989	2003	Um Sader; Kalees	14	52	1988	2003	Tameesh; Rahad Katra	15
26	1990	2003	All battles	13	53	1987	2003	Kalees; Teeneh	16
27	1988	2003	Um Sader; Kalees; Tbeesha	15	54	1988	2003	5 battles	15

[a] The identity of the child soldiers is known to the Panel of Experts.

247. After the attacks against Muhajeriya in January and February 2009, the Panel identified child soldiers in the ranks of JEM who had been wounded during the violence and hospitalized in Iriba, eastern Chad.

(c) Use of child solders by Chadian armed opposition groups

248. Interviews with current and former members of Chadian armed opposition groups and documents captured prove the ongoing recruitment and use of child combatants. The identity of the recruits is recorded in a centralized register and on identity cards that are issued before recruits undergo training and are allocated to a specific unit within the group.

249. Notes dated 22 October 2007 of a meeting of the National Executive Office that General Nouri attended state:

> The problem of minors should not be lost from sight. Many organizations working on human rights and the rights of the child have condemned many other politico-military opposition organizations for enrolling child minors within the armed opposition.

250. As during its previous incursions into eastern Chad, Chadian armed opposition groups employed child soldiers again for the attacks on Am Dam in May 2009. The Government of Chad claimed to have captured 84 child combatants from URF.

251. The Panel has obtained a table from UFDD showing the identity of children and adult combatants who were recruited as children and attained the age of majority when already inside Chadian armed opposition groups (see table 4). The Panel has found no record that these children have been repatriated to their families.

Table 4
Child soldiers in Chadian armed opposition groups

Registration number	Name	Date of birth	Place of birth	Date of joining	Capacity	Unit	Age
710	1	Around 1993	Abkar	20/06/2007	Combatant	Command	14
715	2	Around 1990	Goz	12/05/2007	Combatant	Instruction centre	17
859	3	Around 1990	Djekdei	22/06/2007	Combatant	Instruction centre	17
1009	4	Around 1992	Fereida	09/04/2007	Combatant	Administrative centre	15
1010	5	Around 1992	Bourdai	02/03/2007	Combatant	Administrative centre	15
1011	6	Around 1990	Darsila	08/04/2007	Combatant	Administrative centre	17
1015	8	Around 1992	Fereida	10/04/2007	Combatant	Administrative centre	15
1016	9	Around 1991	Fereida	03/05/2007	Combatant	Administrative centre	16
1017	10	Around 1991	Mondjbab	04/03/2007	Combatant	Administrative centre	16
1018	11	Around 1995	Beida	02/03/2007	Combatant	Administrative centre	12
1019	12	Around 1991	Gandaye	02/05/2007	Combatant	Administrative centre	16
1020	13	Around 1991	Ferida	12/04/2007	Combatant	Administrative centre	16
1021	14	Around 1992	Torbruguine	07/05/2007	Combatant	Administrative centre	15
1034	15	Around 1991	Am Zoer	05/05/2007	Combatant	Gendarmerie	16
1296	16	Around 1990	Ouroupta	25/10/2006	Combatant	Cdt Escadron Général	16
1521	17	Around 1990	Abéché	28/03/2007	Combatant	Sect 2 Ops 5 DV3	17
1522	18	Around 1989	Sarh	26/10/2006	Combatant	Sect 2 Ops 5 DV3	17
1529	19	Around 1989	Adre	25/11/2006	Combatant	Sect 2 Ops 5 DV3	17
1536	21	Around 1991	Nagargoune	10/04/2007	Combatant	Sect 5 Ops 6 DV3	16
1546	22	Around 1989	Abéché	09/12/2006	Combatant	Sect 1 Ops 5 DV3	17
1715	23	Around 1990	Abdi	03/02/2007	Combatant	Cdt Ops DV1	17
1722	24	Around 1990	Hanouna	22/10/2006	Combatant	Sect 1 Ops 5 DV1	16
1723	25	Around 1993	Biltine	12/02/2007	Combatant (Deserted with arm)	Cdt Ops 5 DV1	14
1884	26	Around 1989	Namkozoume	22/10/2006	Combatant	Cdt EMGA	17
1887	27	Around 1989	Allacha	28/11/2006	Combatant	Cdt EMGA	17
2235	28	Around 1989	Gamar	22/10/2006	Combatant	Cdt B2	17
2245	29	Around 1989	Dobou	09/12/2006	Combatant	Ops 4 DV2	17
3168	30	Around 1989	Abéché	22/10/2006	Combatant	Escadron Général GP1	17

252. At a meeting with the Panel on 18 July 2009, UFR Chairman Timan Erdimi categorically denied that minors were present in the ranks of UFR. Although Mr. Erdimi invited the Panel to conduct unannounced visits to UFR camps in West Darfur, when the Panel attempted to visit such camps, UFR officials did not cooperate.

(d) Legal standards

253. While there is no specific mention of child soldiers in the Geneva Conventions of 1949, there are numerous instruments under international humanitarian and human rights law that are designed to protect children from being used as soldiers in armed conflict. The following legal standards apply to children in armed conflict:

- Additional Protocol I to the Geneva Conventions (1977), article 77.2 of which provides that "children who have not attained the age of fifteen years do not take a direct part in hostilities"
- Additional Protocol II to the Geneva Conventions (1977), article 4.3 (c) of which provides that "children who have not attained the age of fifteen years shall neither be recruited in the armed forces or groups nor allowed to take part in hostilities"
- The Convention on the Rights of the Child, which provides in article 1 that "a child means every human being below the age of eighteen years unless, under the law applicable to the child, majority is attained earlier". Article 38.2 provides that "States Parties shall take all feasible measures to ensure that persons who have not attained the age of fifteen years do not take a direct part in hostilities"
- The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict which provides, with particular reference to non-State armed groups, that under no circumstances should persons under the age of 18 years be recruited or used in hostilities
- The International Labour Organization (ILO) Convention on the Worst Forms of Child Labour, which defines the child as any person "under the age of 18" and applies to the "forced or compulsory recruitment of children for use in armed conflict", among other things
- The African Charter on the Rights and Welfare of the Child, which establishes the age of 18 as the minimum age for recruitment and participation in any armed force or armed group
- The Rome Statute of the International Criminal Court, under which conscripting or enlisting children under the age of 15 years or using them to participate actively in hostilities in both international and non-international armed conflict is considered a war crime

4. Failure to protect civilians

(a) Legal standards

254. In accordance with international humanitarian law, the Government of the Sudan has the primary responsibility to protect and respect the rights of civilians in Darfur. Similar obligations to protect apply to the other parties to the conflict.

255. Articles 60 and 61 of the African Charter on Human and Peoples' Rights recognize regional and international human rights instruments and African practices consistent with international norms on human and peoples' rights as being important reference points for the application and interpretation of the African Charter. In addition, article 11 of the Protocol to the African Charter on Human and People's Rights on the rights of women in Africa states that: "States's parties undertake to respect and ensure respect for the rules of international humanitarian law applicable in armed conflict situations which affect the population, particularly women". The Sudan is a signatory to the African Charter and the Protocol thereto and is therefore obliged to fulfil its responsibilities accordingly.

(b) Findings relating to the lack of protection of civilians by the Government of the Sudan and by armed movements

256. Although internally displaced persons report improvements in the security situation in towns and in camps for the internally displaced, violent attacks on and harassment of civilians continue in the rural areas of Darfur. Internally displaced persons have overwhelmingly alleged that the Government of the Sudan security forces and the Janjaweed commit the majority of violations. Women and children are especially victimized. In most cases, victims identify the perpetrators as armed Arab men in green and khaki uniforms.

257. Internally displaced men face different challenges owing to the lack of security outside of camps for the internally displaced and towns. Men are more likely to be forced to pursue economic opportunities in the town markets, where they are liable to be the victims of theft, robbery and looting. Women primarily face the threat of rape, as opposed to the risk of death that men encounter. It is often the women who engage in farming and other livelihood activities in the hinterlands.

258. Interviews with internally displaced persons revealed that victims and their families rarely report incidents to the police owing to a lack of trust and the belief that the Government of the Sudan will not take appropriate legal action. Internally displaced persons believe that the local police are powerless and cannot control the armed perpetrators. They told the Panel that during the rainy season armed nomads drive their cattle over their farmlands and destroy the crops with impunity thanks to their superior armaments. The Panel witnessed cattle grazing on farmlands outside of Mukjar and in Saraf Jaded.

259. While the fact that they set up camp outside the town of Muhajeriya during their incursion in January 2009 may relieve JEM leaders from being accused of having failed in their obligation to protect the civilians of Muhajeriya, when they advanced with their combatants and held a political rally in the centre of Muhajeriya fully aware that SLA/MM and SAF forces were gathering for a counter-attack, they did fail in this obligation.

260. To remedy the ongoing situation of harassment and abuse of internally displaced persons, the Government of the Sudan has installed some security posts, mostly manned by under-trained and under-equipped personnel, around the areas where internally displaced persons, primarily women, conduct their livelihood activities. The internally displaced persons do not perceive these security forces as providing adequate protection because these community police officers rarely intervene against those who harass internally displaced persons. The consequence is that the perpetrators enjoy unchecked impunity. There is a systemic failure to

protect citizens at the local, state and national levels. Under international humanitarian law, the Government is responsible for providing localities with the resources, training and system of accountability in order to provide effective protection to all civilians.

(c) Access to relief

261. On 4 March 2009, the Government of the Sudan expelled 13 international non-governmental organizations from the Sudan, claiming that they had violated their contract with the Government. According to the Government of the Sudan officials, some of those international non-governmental organizations engaged in spying or were simply not qualified to perform the agreed upon services. International monitors state that international non-governmental organizations with a protection mandate, particularly in the area of sexual and gender-based violence, had come to be at odds with the position of the Government of the Sudan. An important effect of those disputes is that the independent monitoring of the protection of international humanitarian law and the human rights of Darfurians is now diminished.

262. Since the expulsion of the international non-governmental organizations, a debate has ensued over whether the gap in services has resulted in widening despair among Darfurian communities. Despite Government claims that humanitarian aid is reaching to those in need, internally displaced persons complain that access to relief remains difficult or has become even more difficult.

263. HAC oversees the registration and movement of all international and national relief agencies within the Sudan. HAC has proffered a document to the Panel that summarizes the current humanitarian situation in Darfur. According to this document, there are currently 327,470 internally displaced persons and 100,000 refugees in Darfurian camps. By March 2009, there were 840,376 returnees to 641 villages. The Government claims further that the health indicators are "good and stable and there are no epidemic diseases". Food security is "generally good as there are no affected segments that have not received aid". Finally, the Humanitarian Affairs Coordinator states that the mortality rate for Darfurians is 0.13 per cent for the year 2008.

264. Internally displaced persons all over Darfur have provided a strikingly different picture of the situation to the Panel. The expulsion of relief groups from the Sudan has sparked a widespread decline in the delivery of services to affected communities. Internally displaced persons do not trust the motives of the Humanitarian Affairs Coordinator, and perceive them as an extension of the oppressive policies implemented by the Government of the Sudan. Rebel groups and internally displaced persons dispute the Government's claim that return to their original farmlands is safe. They complain about lack of food, appropriate shelter, education and security in the camps.

265. The report of the Government of the Sudan/United Nations Joint Assessment Mission to Darfur dated 24 March 2009 states under "Health and nutrition":

> "The departure of the NGOs has left 650,000 people with lower levels of basic health services. Thirty-two health facilities and 28 therapeutic feeding centres are not fully operational, which will affect approximately 700 malnourished children."

266. An additional dimension of the failure of the Government of the Sudan to protect civilians results from its resistance to allowing UNHCR to play its normal role as lead agency in the protection of internally displaced persons and refugees. The Government of the Sudan has intervened and decided that, for camps for internally displaced persons within Darfur, the Office for the Coordination of Humanitarian Affairs must be the lead agency. While the Office for the Coordination of Humanitarian Affairs is carrying out this unusual responsibility with diligence, its lack of capacity and expertise results in unnecessary tensions in the camps. Civilians and internally displaced persons complain about the lack of security provisions, communication, medical and educational services and the general condition of the camps.

C. Violations of human rights

1. International human rights legal framework

267. The Government of the Sudan has ratified, acceded to or signed several international and regional human rights treaties designed to protect the rights of individuals in the Sudan.[7] The most pertinent human rights treaties in the context of the work of the Panel are the International Covenant on Civil and Political Rights and, at the regional level, the African Charter on Human and Peoples' Rights. At the domestic level, the Comprehensive Peace Agreement, the National Interim Constitution and the Darfur Peace Agreement all contain provisions guaranteeing the protection of human rights and fundamental freedoms.

268. The most relevant rights in the context of the Darfur conflict are: (a) the right to life; (b) the right not to be subjected to arbitrary arrest or detention; (c) the right not to be subjected to torture or to cruel, inhuman or degrading treatment or punishment; (d) the right to effective remedy for any serious violations of human rights, which includes the obligation of State authorities to bring to justice perpetrators of such violations. Under article 4 of the International Covenant on Civil and Political Rights, certain rights may be derogated from in exceptional circumstances. However, permissible derogations under international human rights law do not pertain to the right to life or the prohibition of torture and other cruel, inhuman or degrading treatment or punishment.

2. Violations of the right not to be subjected to arbitrary arrest or detention and the right not to be subjected to torture or to cruel, inhuman or degrading treatment or punishment

(a) Introduction

269. The Panel has received a significant number of reports of arbitrary arrest and detention as well as ill-treatment and torture of persons while in the custody of the

[7] The Sudan has acceded to four of the seven major international human rights conventions, namely: the International Covenant on Civil and Political Rights (1986); the International Covenant on Economic, Social and Cultural Rights (1986); the Convention on the Elimination of All Forms of Racial Discrimination (1977); and the Convention on the Rights of the Child, which it has also ratified (1990). It has signed the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1986), but has not ratified it. The Sudan has acceded to the two Optional Protocols to the Convention on the Rights of the Child on the involvement of children in armed conflicts (2005) and on the sale of children, child prostitution and child pornography (2004).

Government security apparatus. Most of these cases are related to the campaign carried out by NISS and the Military Intelligence with the cooperation of the Ministry of the Interior, in and outside Darfur, against Darfurians suspected of being linked to the attack against Omdurman on 10 May 2008. According to the United Nations High Commissioner for Human Rights, "among those arrested by NISS were hundreds of civilians of Darfurian origin who in many cases appeared to have been targeted solely because of their Darfurian ethnicity or appearance".[8]

270. The Panel has also received a number of reports of the arbitrary arrest by the same Government apparatus of individuals it suspects of having cooperated with the International Criminal Court or those who opposed the expulsion of international non-governmental organizations in March 2009, immediately after the issuance of the arrest warrant against President Bashir.

(b) Overview of allegations

271. Of a total of 34 individuals interviewed, most told the Panel that they were not informed of their charges at the time of their arrest or accorded the right to legal counsel.

272. All of the persons interviewed testified that they had been released after a time without being formally charged with a crime or produced before a court of law. They were released only after being forced to sign release documents some of which stated that they were not allowed to complain or speak to anyone about their detention conditions. The Panel has identified two cases where individuals were detained for nine months and were temporarily released but immediately rearrested and held again in order to comply with Sudanese laws that prohibit the detention of an individual for a period of over nine months without a criminal charge.

273. Despite a decree issued by the Director General of NISS in 2007 reaffirming the rights of detainees and the obligations of officials, with special reference to the prohibition of physical abuse and the liability of individual security officials, multiple complaints indicate that torture and other cruel, inhuman or degrading treatment or punishment does occur while the victims are held by the Government.

274. The consistency of the testimonies provided by victims of torture point to systematic use of physical abuse, including severe beating and hitting with hands, fists and boots as well as other objects, flogging with rubber hoses, burning with coil heaters and other electric instruments, forcing detainees to swallow extremely hot water, sleep deprivation and suspending detainees by ropes in stress positions, all in order to extract confessions or to humiliate detainees.

275. Specific cases documented by the Panel point to violations by state authorities in Darfur or by national Government institutions in Khartoum. The following are some examples of these violations:

- Two Chadian students of Darfurian origin were detained and tortured for five months before being deported to Chad. No official charges were made against them.

[8] Tenth periodic report of the United Nations High Commissioner for Human Rights on the situation of human rights in the Sudan: arbitrary arrest and detention committed by national security, military and police, 28 November 2008, p. 21.

- Twelve Sudanese students, some of them of Darfurian origin, were arbitrarily arrested in Khartoum and Omdurman, detained and systematically ill-treated or tortured before being released. No official charges were made against them.
- Ten Darfurians were arrested in the three Darfur states and transported aboard a Government of the Sudan aircraft to Khartoum, where they were detained and tortured. No official charges were made against them.
- Three former Government of the Sudan officials of Darfurian origin were dismissed from their jobs, detained and tortured before being released. No official charges were made against them.
- Five Darfurian human rights defenders were kidnapped from their homes in Darfur and other regions, and brought to Khartoum, where they were detained and ill-treated before they were released. No official charges were made against them.
- A Darfurian businessman was arrested and transported aboard a Government of the Sudan aircraft to Khartoum, where he was detained and tortured for six months before being released. No official charges were made against him.
- National staff of the United Nations were arbitrarily arrested, detained and tortured. No official charges were made against them.

(c) Findings and observations

276. During interviews with the victims, the following consistent pattern has emerged with regard to the way in which individuals are arrested and detained:

(a) NISS personnel arrive on the scene of the arrest in at least two vehicles loaded with a group of armed men, both uniformed and in civilian clothes;

(b) Once victims are identified they are asked to accompany the arresting officers; if the targeted individuals refuse to follow instructions to follow the NISS officers for questioning, they are either threatened or subdued by beating;

(c) Once inside the NISS vehicles, the detainees are often blindfolded and taken to detention facilities in Khartoum;

(d) Individuals arrested in Khartoum are taken to the NISS office near Shandi Station in the Bahari area of Khartoum;

(e) Individuals arrested in the regions are usually apprehended on the basis of an order from the NISS national headquarters in Khartoum;

(f) Most of those arrested in the regions are initially detained and interrogated by NISS officers who are either assigned to a state or a locality, before being flown to Khartoum aboard Government of the Sudan aircraft. Some are released without being transported to Khartoum;

(g) Most arrested in the regions reported ill-treatment or torture while in the custody of NISS officers who are either assigned to a state or a locality;

(h) Most of the persons interviewed stated that they had been taken to the NISS office near Shandi Station in the Bahari area of Khartoum;

(i) All the victims stated they had been interrogated by officers who had identified themselves as working with the "political department", a sub-organ of the Central Security Agency within NISS.

(d) Right of reply not used by the Government of the Sudan

277. Despite repeated requests by the Panel during the current mandate, the first time in a letter dated 6 January 2009, the Government of the Sudan failed to provide information on the practices of the NISS apparatus, human right guarantees and protection mechanisms to deal with any abuses by NISS officers, and the hierarchical structure within NISS.

278. The Panel acknowledges public statements by Sudanese officials, including the director of NISS, against the practice of torture, and the existence of an NISS information centre established to provide information to families about detainees and to receive complaints from detainees and their families about abuses perpetrated by NISS elements. However, the facts established by the Panel strongly indicate that the attitude publicly demonstrated by Government of the Sudan officials against torture has not deterred NISS officers from indulging in the practice of ill-treating and/or torturing Darfurians.

279. Interlocutors interviewed by the Panel informed it that while ill-treatment or torture are not introduced as part of the curriculum prepared for officers undergoing NISS training, everyone in NISS is left with the impression that some physical violence is acceptable in the process of extracting information from suspects. According to a middle-level NISS officer the dilemma is obvious: "how else can I extract information from a criminal when I know that he's got it inside of him?"

280. Up until the time of preparation of the present report, the Government of the Sudan has not provided to the Panel any evidence of any action taken against an NISS employee who has perpetrated human rights violations against Darfurian detainees.

(e) The organizational structure of NISS

(i) Overview

281. In order to understand the precise line of responsibility, the Panel has researched the functioning of NISS.

282. According to a confidential interlocutor within the administration of justice system and other sources, a non-disclosed number of NISS agencies operate under the direct supervision of the Director of National Intelligence and Security Services, and/or his two deputies. These agencies have been established to deal with thematic security issues, such as southern Sudan, foreign intelligence, central security, management of the apparatus and its facilities, economic security, operations, and states' security. Each of these agencies has substructures in the form of circuits, administrations, departments, sections and units.

283. The four most pertinent agencies in the context of arbitrary arrest and detention as well as ill-treatment or torture of Darfurians are the Central Security Agency, the Management Agency, the States' Security Agency and the Operations Agency.

(ii) Central Security Agency

284. Within the Central Security Agency a number of substructures operate that are of major relevance to the violations of international humanitarian and human rights law of Darfurians. Among these substructures is the Political Circuit, which contains a number of administrations, such as the Ethnic-Tribal Administration, the Students' Administration, the Labour Unions' Administration and the Societal Security Administration.

285. The Political Circuit is responsible for, among other things, gathering information on and monitoring the activities of Darfurians perceived to be linked to the rebel movements or as collaborating with the International Criminal Court or other international organizations.

286. Once a suspect is identified, a detention order is sought from the Director of NISS through the chain of command, which from the bottom up consists of the head of the Central Security Agency, the Deputy Directors and the Director of NISS. In cases where the suspect is a high-profile individual, the approval of the National Security Council, which is headed by the President of the Republic, is sought.

287. A detention order is sent to the Operations Agency, which directs its implementation unit to carry out the arrest. Guided by the Political Department as to the location of the suspect, the arresting unit carries out the arrest and in most cases brings the suspect to the NISS offices, known as tanfizi (implementation), near the Shandy Station, in the Bahari area of Khartoum. If mass arrests are ordered, as was the case in the aftermath of the Omdurman attacks, the National Police often assists in the arrests, and in the temporary detention of suspects until they are picked up by NISS officers for interrogation. Once at the NISS offices in Bahari, the suspect is handed over to the Detention Administration, which is part of the Detention Circuit. The Detention Circuit operates under the Management Agency.

(iii) Management Agency

288. The Management Agency contains substructures such as the Detention Circuit, the Human Resources Circuit and the Internal Security Circuit. The Detention Circuit oversees the conditions of detention, including facilities, food and water, and medical needs, while the Human Resources Circuit is responsible for training and services for officers and soldiers. The Internal Security Circuit serves as an internal oversight mechanism ensuring the conformity of NISS personnel with the organizational codes.

(iv) Interplay between the Central Security and Management Agencies of NISS in the context of detention

289. Darfurians who have been arbitrarily detained by NISS report that once detainees are handed over by the arresting unit to the Detention Circuit they remain there until called for interrogation by the Political Circuit. The handover from the Detention Circuit to the Political Circuit is registered in a logbook, where the receiving officer signs for the receipt of a detainee. Once the Political Circuit officers have concluded their interrogations the detainee is handed back over to the Detention Circuit, whose officer in turn signs the logbook and assumes responsibility for the well-being of the detainee.

290. As a result of the high number of detainees in the aftermath of the Omdurman attacks, the Political Circuit had to prioritize its workload. After initial interrogation, some suspects were transferred to the NISS detention facility inside the Kobar general prison. These suspects are summoned from time to time to undergo further interrogation by the Political Circuit, then sent back to the NISS facilities in that prison.

(v) The interplay of NISS Headquarters with its regional offices

291. NISS Headquarters interacts with its regional offices through the States' Security Agency, which oversees the operation of NISS mechanisms at the state level. Each of the three Darfur states is represented under the Darfur or West sector. At the state level, NISS mechanisms follow the model structure of the overall organization. The state-level Political Department mirrors the monitoring and arrest mechanisms employed at the national level. The state-level Political Department may arrest an individual on the basis of its own monitoring and investigation. In this case, the suspect is arrested and interrogated. Afterwards, he may be released or detained for further questioning or, if deemed necessary, sent to NISS Headquarters in Khartoum for further interrogation.

292. The state-level Political Department may also arrest and detain an individual on the basis of an order from the NISS Headquarters in Khartoum. This decision is often made at the level of the Political Department under the Central Security Agency at NISS Headquarters and is forwarded by the Director to the States' Agency, which in turn forwards the order to the state-level NISS director.

293. The role of the state-level NISS in this context is to interrogate the detainee and make recommendations as to whether he would be useful to the NISS Headquarters in Khartoum or whether he should be released. In some cases, the NISS Headquarters' order is to arrest and deliver a suspect only. All detainees who are transferred to Khartoum are flown aboard Government of the Sudan military aircraft.

3. Right to freedom of expression

294. Retribution perpetrated against Darfurians on the ground of political opinion or affiliation has resulted in the curtailment of freedom of expression among Darfurians. Darfurians have been arbitrarily arrested, detained, ill-treated or tortured for expressing an opinion in support of one party to the conflict or another.

295. Internally displaced persons who have been victimized fear telling their stories or speaking out against the Government of the Sudan or rebel groups, owing to the harassment and at times violence they have experienced as a result of speaking out. This sentiment has been expressed by community leaders of the internally displaced throughout Darfur. For instance, when it visited the Mornei camp, which hosts the largest concentration of internally displaced persons (82,000) in West Darfur, the Panel could not meet with community leaders owing to their fear of possible repercussions in view of the overwhelming presence of NISS in the area.

296. In Kabkabiya, a town in North Darfur most of the population of which consists of internally displaced persons, the Panel succeeded in meeting with community leaders. However, interviewees claimed that they and their families had in the past been attacked immediately following other interviews with international monitors.

297. In other locations, community leaders were able to meet with the Panel only in secret, out of fear of reprisals.

298. In North Darfur, the Panel documented the case of a community leader of the internally displaced who had been arbitrarily arrested and detained by NISS. The umda had apparently expressed support for the International Criminal Court's efforts in Darfur during a meeting with foreign dignitaries. NISS officials informed the Panel that the umda had been detained for propagating the political agenda of SLA/AW in his camp. After the meeting, NISS informed the Panel that, after consulting with the State Security Committee, it had decided to release the community leader without pressing any formal charges against him.

299. Similarly, internally displaced persons and community leaders in areas under the control of SLA/MM have also been subjected to harassment, ill-treatment and in some cases torture. Human rights violations perpetrated against pro-Government of the Sudan community members in Wada'ah and pro-Sudan Liberation Army/Free Will (SLA/FW) community members in the Kafod area resulted in escalation of tension within these communities and the eventual destruction of both areas in 2008 and 2009.

300. In order to protect many of its interlocutors who are particularly exposed to threats, the Panel is unable to provide further details of the information shared and the locations where they were met. Government intimidation escalated considerably after the expulsion of the international non-governmental organizations in March 2009. Representatives of international organizations are currently guarding against the threat of being declared persona non grata.

301. The campaign of arbitrary arrest, detention and ill-treatment or torture has targeted human rights defenders and led to the eventual escape of many of them to Egypt, Uganda and other countries. The atmosphere of intimidation has deterred many human rights defenders who have remained in the Sudan from interacting with the Panel.

302. At the end of the current mandate, the Panel has learned of and is now monitoring the case of a human rights defender with whom it has interacted and who has subsequently been detained and interrogated by NISS and other security services. The Panel has learned that this individual has been beaten severely and forced to provide access to his e-mail and correspondence. At the time of writing, the Panel has not been able to verify the condition of this individual or his legal status. Interlocutors have, however, confirmed to the Panel that he was taken to the Political Department of NISS in Bahari.

4. Right to effective remedy

303. The Government of the Sudan is obliged under article 2.3 of the International Covenant on Civil and Political Rights to bring to justice perpetrators of human rights violations. During the current mandate, the Panel documented failure to provide effective legal remedy in cases involving killing, sexual and gender-based violence, arbitrary arrest and detention, and torture. The Panel monitored the implementation of the right to effective remedy of the victims of sexual and gender-based violence and of the victims of torture.

(a) Right to effective legal remedy in cases of sexual and gender-based violence

304. According to internally displaced persons, perpetrators of sexual and gender-based violence are often members of Arab militia, Government of the Sudan armed forces, signatory and non-signatory rebel groups, and Chadian armed opposition groups. They carry out physical and sexual assault, rape, threaten and shoot women with their weapons, beat them and rob them of their possessions. There appears to be an overwhelming apathy towards, and unwillingness to investigate, acts of sexual and gender-based violence. Victims and their families often refuse to contact the National Police because they distrust the police's willingness and ability to investigate cases of sexual and gender-based violence, and the burden of proof usually falls upon the victims, who must gather evidence themselves.

305. According to Sudanese law, if the alleged perpetrator of a crime belongs to a military unit of the Government of the Sudan or any of its auxiliary units, a prosecutor would need to request from the SAF Military Legal Advisor the lifting of the immunity of the accused. The Military Legal Advisor is then expected to pass on the request to the commander of the unit to which the accused belongs and to initiate his investigation into whether the immunity of the accused should be lifted in order to facilitate a civil trial.

306. It is at this stage in the administration of justice that military personnel and members of the Government of the Sudan auxiliary forces who commit sexual and gender-based violence are often afforded impunity. Requests by prosecutors to the military legal advisers of the alleged perpetrator's unit to lift immunity so as to facilitate investigations and civil trial are either ignored or are denied on the pretext of lack of sufficient evidence.

307. Further Panel inquiries revealed that the management structures of SAF and the Government of the Sudan auxiliary forces pay insufficient attention to the enforcement of the Sudanese laws against sexual and gender-based violence. When the Panel requested statistical data on prosecutions for sexual and gender-based violence or information on specific cases at both the national and state level, no information was made available.

(b) Right to effective legal remedy in cases involving violations committed against people in Government detention

308. Despite the presence of an elaborate legal system in Sudan, Darfurian victims of arbitrary arrest and detention, and ill-treatment or torture documented by the Panel during the current mandate or in previous mandates have not been accorded the right to effective legal remedy. The Panel has documented a number of detainees who, prior to their release from NISS detention facilities, were forced to sign release papers, including a non-disclosure declaration that obliges them to keep secret their arrest, detention, ill-treatment or torture.

309. While Sudanese law stipulates that a prosecutor inspect the conditions of imprisonment in pre-trial detention facilities, Darfurian detainees assert that they were never visited by a prosecutor and that they were given no opportunity to discuss their treatment and detention conditions with a prosecutor. In the case of NISS, none of the detainees interviewed by the Panel said that they had been visited by a prosecutor, despite the reference in article 32 (5) of the National Security Forces Act (1999) to the effect that "[t]he competent Prosecution Attorney shall

continuously inspect custodies of detained persons, to insure abidance by the safeguards of detention, and receive any complaint from a detained person".

310. The National Security Act (1999) contains provisions that undermine human rights protected under international human rights law and domestically under the Interim National Constitution, and allow impunity for perpetrators of human rights violations against, among others, citizens of Darfurian origin.

VI. Offensive military overflights

311. Offensive military overflights consisting of flights at low altitude and bombing raids on water points of vital importance to civilians are being carried out by SAF with such high frequency that members of armed movements who used to report such incidents regularly no longer do so. The most recent observations were made in and around Muhajeriya, Karnoi, Furawiya, Umm Baru, Shegig Karo, Kurma, Um Sayala, Jebel Moon and Jebel Marra.

312. Serious incidents involving casualties among internally displaced persons occurred in Muhajeriya, Mausoula, Shawa and Umsosuna during the JEM attacks against Muhajeriya in January 2009.

313. The Panel found evidence of excessive use of aviation forces in the order given on 14 January by General Ahmed Ali Othman Ali, Commander of the 16th Infantry Company of SAF to "aviation forces based in Nyala and El Fasher to destroy the enemy". On 21 January 2009, the Shaeria Forces, Intelligence requested in their report 56 to "kindly activate air force operations" against JEM troops operating in the area of Muhajeriya. The Panel has collected evidence to the effect that following those orders, civilian casualties occurred in Matti and thousands of villagers were displaced because of the SAF bombings.

314. The Panel also documented offensive military overflights by SAF near the refugee camp of Oure Cassoni in eastern Chad. Refugees reported subsequently to the Panel that low-flying Antonov aircraft from the Sudan are sighted on a weekly basis.

315. The air force of Chad has also conducted offensive military overflights, in West Darfur. On 15 and 16 May 2009 SU-25 Sukhoi jets taking off from Abéché airport dropped bombs near an encampment of retreating Chadian armed opposition groups troops in the area of Jebel Sarrow. No casualties were reported.

316. Subsequently, a number of additional bombing raids by Chadian aeroplanes have been reported. The Panel has been able to verify only two attacks in Um Dukhum on 18 July near a camp for internally displaced persons.

VII. Impediments to the peace process

317. In order to achieve an accurate and balanced assessment, the Panel of Experts has developed criteria for potential impediments to the mediation process and has measured each of the parties to the conflict against these criteria.

Table 5
Matrix of actors and impediments to the peace process

	Actors							
Criteria	*Government of the Sudan*	*Government of the Sudan auxiliary forces (Janjaweed)*	*Chadian armed opposition groups*	*JEM*	*SLA/MM*	*SLA/AW*	*SLA/Unity*	*Chad*
Failure to fully implement resolutions of the Security Council concerning the situation in Darfur	1. Failure to disarm auxiliary forces (Janjaweed) 2. Failure to prevent arms embargo violations 3. Failure to protect the rights of Darfurians	1. Failure to protect the rights of Darfurians	No applicable incident reported	1. Failure to protect the rights of Darfurians	1. Failure to protect the rights of Darfurians	No applicable incident reported	No applicable incident reported	1. Failure to prevent arms embargo violations
Violations of the Darfur Peace Agreement	1. Failure to disarm auxiliary forces (Janjaweed) 2. Failure to protect civilians 3. Conducting offensive military overflights and bombing areas occupied by internally displaced persons and refugees 4. Acquiring territory held by co-signatory	Non-signatory	Non-signatory	Non-signatory	1. Failure to protect civilians 2. Attacks against civilians 3. Requested that the Government of Sudan provide aerial bombardment (offensive military overflights)	Non-signatory	Non-signatory	Not applicable
Recruitment of combatants and children	Tolerates recruitment of children by Central Reserve Police, Popular Defence Forces, Border Guards	Tolerate recruitment of children	Tolerate recruitment of children	Tolerate recruitment of children	No applicable incident reported	No applicable incident reported	No applicable incident reported	Attempts to stop the practice but reports indicate that recruitment of children continues

	Actors							
Criteria	*Government of the Sudan*	*Government of the Sudan auxiliary forces (Janjaweed)*	*Chadian armed opposition groups*	*JEM*	*SLA/MM*	*SLA/AW*	*SLA/Unity*	*Chad*
Embargoed military operations, including reconnaissance	1. Obeid-based SAF 5th Brigade transiting into Darfur 2. Operation of UAV from El Fasher airport to Jebel Marra	No applicable incident reported	1. Incursion from West Darfur into eastern Chad towards Am Dam and return to West Darfur fully armed	1. Armed incursion from eastern Chad to Omdurman, Muhajeriya, Karnoi, Umm Baru and Kordofan	No applicable incident reported	No applicable incident reported	No applicable incident reported	1. Bombing raid against Chadian armed opposition groups in Jebel Sarrow and Um Dhukum
Deployments, movements and/or actions which could extend the territory under control or which could lead to a resumption of hostilities	1. Takeover from SLA/MM of Tawila, Kadfod, Muhajeriya, Labado, Wada'ah	No applicable incident reported	1. Incursion from West Darfur into eastern Chad	1. Armed incursion from eastern Chad to Omdurman, Muhajeriya, Karnoi, Umm Baru and Kordofan	No applicable incident reported	No applicable incident reported	No applicable incident reported	No applicable incident reported
Supply or acquisition of arms and ammunitions in Darfur	1. Ongoing rotations of military personnel and embargoed materiel without seeking approval of the Committee established pursuant to Security Council resolution 1591 (2005) 2. Ongoing supply of embargoed materiel to Chadian armed opposition groups	1. Ongoing rotations of military personnel, and embargoed materiel without seeking the approval of the Committee established pursuant to Security Council resolution 1591 (2005)	1. Ongoing supply of embargoed materiel into West Darfur bases	1. Ongoing supply of embargoed materiel from eastern Chad to various points of deployment within Darfur	No applicable incident reported	No applicable incident reported	No applicable incident reported	1. Ongoing support to JEM for the acquisition of embargoed materiel

	Actors							
Criteria	*Government of the Sudan*	*Government of the Sudan auxiliary forces (Janjaweed)*	*Chadian armed opposition groups*	*JEM*	*SLA/MM*	*SLA/AW*	*SLA/Unity*	*Chad*
Denial of free and unfettered access to humanitarian service providers	1. Expulsion of international non-governmental organizations 2. Frequent violations of Status of Forces Agreement with UNAMID	No applicable incident reported	No applicable incident reported	No applicable incident reported	No applicable incident reported	Denial of access for certain non-governmental organizations	No applicable incident reported	No applicable incident reported
Impeding freedom of movement of goods and people	No applicable incident reported	Taxation of commercial trucks and other traffic at checkpoints	No applicable incident reported	Taxation of commercial trucks and other traffic at checkpoints	Taxation of commercial trucks and other traffic at checkpoints	Taxation of commercial trucks and other traffic at checkpoints	No applicable incident reported	No applicable incident reported
Failure of the Government of the Sudan to identify, neutralize and disarm armed militia groups	Failure to make transparent or account for any disarmament efforts	Failure to enter into a verifiable disarmament programme	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable
Provision of financial, military, logistical or other support for groups engaged in ongoing hostilities within Darfur	1. Supply of embargoed materiel to Chadian armed opposition groups 2. Supply of embargoed materiel to auxiliary forces	No applicable incident reported	No applicable incident reported	No applicable incident reported	No applicable incident reported	No applicable incident reported	No applicable incident reported	1. Military and logistical support to JEM
Hostile acts against members of UNAMID, of other United Nations bodies or national/ international non-governmental organizations	No applicable incident reported	1. Use of hijacked Toyota Land Cruisers that used to belong to United Nations organizations	1. Use of hijacked Toyota Land Cruisers that used to belong to United Nations organizations	1. Use of hijacked Toyota Land Cruisers that used to belong to United Nations organizations	No applicable incident reported	No applicable incident reported	No applicable incident reported	No applicable incident reported

	Actors							
Criteria	*Government of the Sudan*	*Government of the Sudan auxiliary forces (Janjaweed)*	*Chadian armed opposition groups*	*JEM*	*SLA/MM*	*SLA/AW*	*SLA/Unity*	*Chad*
Failure to enforce accountability and the rule of law among combatants under their control for violations of international humanitarian and human rights law	1. Impunity for Government of the Sudan auxiliary forces who attack civilians 2. Impunity for NISS and military Intelligence officers who arrest, detain and torture civilians 3. Impunity for recruiters of child soldiers 4. Impunity for human rights violators	1. Impunity for sexual and gender-based violence 2. Impunity for recruiters of child combatants	1. Impunity for recruiters of child combatants	1. Impunity for violations of international humanitarian law and human rights 2. Impunity for recruiters of child combatants 3. Lack of an adequate administration of justice system within the territory under JEM control	1. Lack of an adequate administration of justice system within the territory under JEM control	No applicable incident reported	No applicable incident reported	No applicable incident reported
Refusal to immediately engage fully and constructively in the peace process without preconditions	No applicable incident reported	No applicable incident reported	No applicable incident reported	No applicable incident reported	No applicable incident reported	1. Refusal to engage in Doha mediation	No applicable incident reported	No applicable incident reported

Note: Where referent is made to the fact that no applicable incident was reported, it should not be construed that it in all of these cases the Panel was able to investigate fully the underlying circumstances. It merely indicates that the Panel has not been able to gather conclusive evidence.

VIII. Implementation of the travel ban and the assets freeze

318. In resolution 1672 (2006), the Security Council designated four individuals as subject to the measures imposed by paragraphs 3 (d) and 3 (e) of resolution 1591 (2005) (the travel ban and the assets freeze, respectively). The Panel has received no replies to its requests to the Governments of the Sudan and Chad on the implementation of these measures.

319. The Panel raised the subject of the obligation to implement these measures with the Government of the United Arab Emirates after it had learned that listed individuals may have entered that State. The United Arab Emirates reported to the Panel the following:

- Mr. Adam Yacub Shant and Mr. Bagril Abdul Kareem Badri are listed among individuals who are excluded from entering the United Arab Emirates
- Mr. Gaffar Mohammed Elhassan and Sheikh Musa Hilal (no details available).

IX. Cooperation with the Panel

320. In paragraph 4 of resolution 1841 (2008), the Security Council urged all States, relevant United Nations bodies, the African Union and other interested parties to cooperate fully with the Panel. The Panel has sought assistance from Member States, international organizations and companies in order to accurately assess implementation of measures imposed by resolution 1591 (2005) and resolution 1556 (2004).

321. In many cases the Panel has received good and timely support. However, in the following sections, the Panel would like to identify some Member States whose cooperation did not result in adequate assistance, which in some circumstances delayed the Panel's monitoring progress or made progress impossible. The Panel would also like to refer to some relevant United Nations bodies whose cooperation could be further improved.

A. Cooperation from Member States

322. Pursuant to paragraph 4 of resolution 1841 (2008), the Panel has sought extensively the support of States in order to obtain information on technical issues and on the implementation of measures imposed by resolutions 1591 (2005) and 1556 (2004). Table 6 shows the degree of cooperation the Panel has received in response to its written requests.

Table 6
State cooperation with the Panel

State	*Issues raised*[a]	*Receipt of request acknowledged*	*Issue fully answered*	*No response to issue*
Sudan	70	15	15	55
China	23	12	3	9
United Arab Emirates	9	3	2	6
Chad	13	9	8	5
Ethiopia	2	0	0	2
United States of America	3	1	1	2
Bulgaria	2	1	1	1
Libyan Arab Jamahiriya	1	0	0	1
Pakistan	1	0	0	1
Qatar	1	1	0	0
Egypt	1	0	0	0
Central African Republic	1	1	1	0
Syrian Arab Republic	1	0	0	0
Germany	1	1	1	0
Jordan	1	1	1	0
Netherlands	1	1	1	0
Serbia	1	1	1	0
South Africa	1	1	1	0
Japan	2	2	2	0
Ukraine	2	2	2	0

[a] This list excludes two series of letters in which the Panel requested assistance from 25 Member States in regard to a total of 31 issues connected with an enhanced arms tracing effort. Given the complexity of these issues, the Panel feels that Member States may require additional time to cooperate.

323. The Panel wishes to signal an observation it has made regarding certain States' cooperation. Some States did not reply to requests by the Panel but chose to send their answers to the Security Council Committee established pursuant to resolution 1591 (2005).

1. Sudan

324. Coordination meetings requested by the Panel with the focal point of the Government of the Sudan and Commissioner for Security Arrangements "Peace Darfur", General Aldhabi, were held on 13 May, 16 July and 13 August. On 15 May, the Panel met with Lt General Aladil Alajib Yagoub, Deputy Director General-Inspector General of the National Police; and on 17 May and again on 16 July with Major General Ibrahim Izzedin, in charge of Foreign Relations for the Ministry of Defence, and Major General Salah Abdulkhalig of the Air Force. On 20 July, the Panel was briefed by Ambassador Osman Dirar of the Presidency of the Sudan and part of the Sudan mediation team.

325. However, the results of these meetings fell far short of expectations in terms of the facilitation of field monitoring activities and regarding answers to specific requests for information. Pertinent examples of representatives of the Government of the Sudan paying lip service without delivering any substantive responses were evident during the meeting on 14 May with the Director General of Civil Aviation Authority Sudan, Eng. Mohammed Abd Alaziz Ahmed. Despite subsequent repetitions of the Panel's requests for civil aviation data, by the deadline for the submission of the present report no such data had been supplied for a second year in a row.

326. Perfunctory responses or outright refusals to respond to issues and questions the Panel raised were the rule rather than the exception. The representatives of the Government of the Sudan did not answer questions raised in the Panel's introductory letters dated 17 December 2008 and 6 January 2009, reasoning that the Panel had no mandate to request, for example, information regarding the troop strength and distribution of SAF and armed movements based in Darfur. This specific disclosure obligation is an important requirement of the N'Djamena Ceasefire Agreement and Abuja Protocols. Without responses to these questions, the monitoring of arms embargo violations and the disarmament of Janjaweed militias and their integration into the Sudanese security forces lacks any baseline.

327. Another method of non-provision of answers to the Panel often involves claims that other Government agencies outside the reach of General Aldhabi would have to consent to providing such information, or simply ignoring the question.

328. For example, the Panel repeatedly requested assistance for visits to sites of recent violent attacks and to inspect seized arms and ammunition, as well as to interview military field commanders. The requested site visits included: Kalma camp regarding the attack of August 2008; El Fasher regarding the killing of a UNAMID driver on 28 December 2008; Majuk near Nyala regarding the killing of a United Nations interpreter on 29 December 2008; Muhajeriya and surrounding villages regarding the fighting during January and February 2009; Umm Baru and Karnoi in North Darfur regarding the fighting during the month of May 2009.

329. None of these visits were facilitated by the Government of the Sudan. When the Panel travelled to Nyala with UNAMID support local SAF and NISS officers had not been informed and were not prepared for the visit, and an attempt to travel to Umm Baru and Karnoi had to be cancelled at the last minute owing to NISS interventions alleging security reasons.

330. The Government of the Sudan demands that it be accorded the privileges rightfully due to a sovereign State. However, with these special rights come responsibilities for compliance with Security Council resolutions, including cooperation with and constructive contributions to the Panel's monitoring tasks, as mandated by the Council. In recognition of such special rights, the Panel did agree on 28 May and 6 August to provide two briefings about the Panel's activities, as requested by General Aldhabi.

331. At the start of the Panel's current mandate, the Government of the Sudan denied three consecutive requests for an entry visa for the Panel's arms expert. General Mohamed Aldhabi alleged that during past mandates that particular expert had committed unspecified infractions. When the Panel reviewed any possible basis for such claims, none turned out to be factual.

332. The Panel's monitoring was further constrained when General Aldhabi declared that movements of the Panel within the Sudan but outside Darfur without written notification would not be allowed and that the Panel could not enter into direct contacts with Sudanese-registered companies, in particular Sudanese aviation companies that have been reported by the Panel during previous mandates as violators of Security Council sanctions.

333. In response to General Aldhabi's decision that GIAD Automotive Industries would not be permitted to reply to the Panel's written request for information unless the Panel resubmitted its letter to him via the Permanent Representative of the Sudan to the United Nations, the Panel decided not to resend this letter as demanded but to bring this issue to the attention of the Committee. First, for principled reasons of protecting the independence of its monitoring, the Panel feels that it must be allowed some flexibility as to whether or not a Government should be consulted in connection with inquiries addressed to private companies. The second reason is that the Panel must protect against the possibility that in a dialogue with one party, the Government of the Sudan, issues might be raised that would infringe on the confidentiality of another party, in this case foreign affiliates and agents of GIAD.

334. The Panel would like to highlight further how independent monitoring in Darfur is not guaranteed owing to interventions by the Government of the Sudan. For example, no UNAMID movement is permitted without approval by the Government of the Sudan. Its control is comprehensive and if a particular UNAMID flight is not given clearance the Panel will not learn the true reasons.

335. The Government of the Sudan has granted three consultants to the Panel multiple-entry visas at the end of the mandate. But the members of the Panel received single-entry visas only.

2. Chad

336. As requested by the Panel, the Government of Chad arranged for the Panel to meet with representatives of the Ministry of Foreign Affairs, the Ministry of Defence, the National Police, the National Gendarmerie and the Intelligence Services.

337. The Government of Chad has been very responsive regarding data on civil aviation issues and has cooperated well by providing timely access to military materiel and prisoners seized from Chadian armed opposition groups in the aftermath of the May 2009 incursion into eastern Chad.

3. United Arab Emirates

338. Answers to written requests dated 3 March 2009 for the facilitation of a visit by the Panel to the United Arab Emirates in order to obtain civil aviation data, and 4 May 2009 regarding tracing of 4x4 vehicles that were sold by the official Toyota dealership based in Dubai and second-hand dealers and that ended up in Darfur as "technicals", were significantly delayed. The Panel received the information at a very late stage of its mandate and it was not possible to process the new data as there was no time left for any follow-up questions or research.

339. Such delays are a significant impediment to the Panel's ability to identify potential violators of the embargo. In two additional cases, the lack of response has prevented the Panel from concluding its investigations of an important supplier of

vehicles to Darfurian armed groups and of an important supplier of component parts to the UAV fleet of the Government of the Sudan.

340. The Panel submitted letters via the Government to the Millennuim Product Company and Al Aumdah Auto Spare Parts, both based in Dubai. To date, the Panel has not received a response, either from the companies or from the Government.

4. People's Republic of China

341. Owing to the prominence of Chinese manufactured arms and ammunition found among the materiel that the Panel documented in Darfur the Panel has sought during the current and previous mandates the close cooperation of the Government of China and more recently of its major defence materiel producers. All of the Panel's contacts with them have been aimed at soliciting support in the tracing of military materiel that was found in the Darfur region in contravention of Security Council sanctions. The Panel is seeking the cooperation of China in order to determine where in the chain of ownership violations of the embargo are taking place.

342. The Panel also requested assistance from China in connection with the content of two containers that in March 2008 were stolen from UNAMID when a shipment was being transported by truck from Port Sudan to Nyala. The shipment was part of a Chinese deployment to UNAMID. According to a letter from the Government of China, it consisted of 360,000 rounds of Type 95 5.8 mm ball ammunition for machine guns or light machine guns and 38,420 rounds of 12.7 mm armour-piercing incendiary ammunition for heavy machine guns. So far, the Panel has not found any correlation between the stolen ammunition and ammunition found in Darfur and documented as violations of the United Nations embargo.

B. Cooperation from the United Nations Secretariat

1. Department of Peacekeeping Operations

343. At the beginning of the current mandate, the Panel wrote to the relevant division of the Department of Peacekeeping Operations in order to introduce the new members of the Panel and explain its mandate and working principles, as well as to establish proper working relations and create the basis for the assistance the Panel would require from the three peacekeeping operations UNAMID, UNMIS and MINURCAT, with regard to logistical arrangements for travel under the mandate within their areas of operation, the sharing of information relevant to the monitoring mandate of the Panel and assistance with physical protection for the Panel members during their work in the areas of operation of the peacekeeping missions.

344. Between January and April, the Panel experienced difficulties in obtaining support from UNMIS and UNAMID, owing in part to anticipated security conditions on the ground prior to and immediately after the issuance by the International Criminal Court of the arrest warrant for the Head of State of the Sudan. Difficulties in obtaining logistical support from MINURCAT were, however, overcome within a few weeks.

345. The Panel also encountered obstacles to information-sharing by UNAMID, while MINURCAT and UNMIS eventually found ways to share certain information that assisted the Panel greatly. The Panel received some information, which was not

relevant for its monitoring purposes, from the human rights section of UNAMID only during the last few weeks of field monitoring.

346. Beginning in the middle of May, UNAMID provided the Panel's missions into Darfur with logistical support and offered helpful insights and guidance through its heads of offices. UNMIS and MINURCAT supported the Panel with excellent logistics and the Panel is appreciative of the seconding of a UNMIS security officer to the Panel's field activities. The efforts of the UNAMID interlocutor, Julius Ahaneku, deserve the particular gratitude of all members of the Panel.

347. During this mandate, the Panel attempted to stimulate a review of possible solutions to the structural problems referred to above. It has pointed out to the relevant departments of the Secretariat the need for a coordinated approach, including the development of guidelines, in order to systemically enhance the cooperation between the relevant peacekeeping missions and the Panel. The Panel is gratified to learn that the leadership of the Department of Peacekeeping Operations is developing formal guidelines for support, covering all aspects of cooperation between DPKO missions and panels of experts.

X. Assessment of progress towards reducing impediments to the political process, threats to stability in Darfur and the region and other violations of the Security Council sanctions

348. In this section of the report, the Panel will follow its analysis that the Darfur crisis is characterized by four distinct conflicts. Accordingly, the Panel will evaluate the current political process within the same framework. The benchmark against which the political process should be evaluated must be the Darfur Peace Agreement. Although many parties to the conflict in Darfur have not signed the Agreement, the Government of the Sudan and SLA/MM, as signatories, have agreed to its stipulations and are therefore obliged to comply with all of them.

A. The lack of solution of the conflicts over claims to land and resources

349. The fight over land and resources between Darfurians remains the root cause of the conflict and hence requires sustainable political settlements. The substantial growth of the population of Darfur over recent decades and the unresolved land rights claims of nomadic Darfurians continue to be pressing issues. One approach agreed upon by some of the actors is the provision in paragraph 197 of the Darfur Peace Agreement for resolving land and property disputes with the help of "property claims committees". Not considered to be an ideal solution to this thorny issue, this provision has so far not been implemented. The failure of the Government of the Sudan and other Darfur Peace Agreement signatories to actively seek and implement solutions to the problems of land and resource claims is one major impediment to the success of the political process.

B. The lack of effective measures against localized violence and sexual and gender-based violence

350. A similar implementation issue concerning provisions agreed upon in the Darfur Peace Agreement exists with regard to localized violence and sexual and gender-based violence. Article 29 of the Agreement provides for the reform of selected security institutions and the disarmament, demobilization and reintegration of combatants. Article 23 stipulates that the protection of the civilian population should be given the highest priority and particularly that women and children should not be subjected to gender-based violence. The lack so far of any credible reform of Sudanese security organizations, the lack of disarmament and reintegration of former combatants and the failure to establish functional institutions specialized in the prevention of sexual and gender-based violence are impediments to the political process.

C. The fight over the leadership of the Sudan and Chad

351. Another major impediment identified by the Panel is the failure to launch a parallel political process addressing the grievances of the Government of Chad and its armed opposition, along with credible arms embargo monitoring of the Darfur-Chad border. Mediation between the Chadian parties supplemented by border monitoring would diminish the perceived need of the Governments of the Sudan and Chad to support their proxy forces, Chadian armed opposition groups and JEM.

D. The conflict between Chad and the Sudan

352. The lack of active dialogue between Chad and the Sudan is an impediment to the political process that also has a negative impact on the settlement of the conflicts between Chad and the Chadian armed opposition groups and between the Sudan and JEM.

E. Additional impediments to the political process

353. The fact that the population census in preparation for the elections scheduled for April 2010 did not include all Darfurians owing to the lack of security and the mistrust that shapes relations between the internally displaced and the Government of the Sudan (the former denied access to their camps to census officials) is a demonstration of the failure to address a core complaint that led to the original rebellion. As long as some Darfurians do not partake in the elections a fundamental political process will lack credibility and Darfurians will continue to be disenfranchised and marginalized.

354. Abdelwahid Al Nour, Chairman of SLA/AW, and Khalid Ibrahim, Chairman of JEM, both claim and have attempted to be the exclusive representatives of Darfurians in the mediation. Abdelwahid Al Nour's claim is based on the argument that he was the Chairman of the original SLA movement from the outset of the rebellion. Khalid Ibrahim's claim is based on the military strength of his movement. The fight between the different movement leaders over leadership of the Darfur

rebellion has so far been a major impediment to any political resolution of the conflict.

355. Currently, mediation efforts initiated by the Governments of Qatar, the Libyan Arab Jamahiriya and Egypt are under way, and mediation-related activities are being carried out by the United States Special Envoy for the Sudan, Major General (Ret.) Scott Gration. The leaders of the belligerent parties are playing for the highest bid without showing willingness to invest seriously in any political process. Participation in these processes has become an end in itself instead of a means to a political resolution of the conflict. The multiplicity of uncoordinated efforts by various State parties to unify the armed movements is thus another serious impediment to the political process.

356. Behind the unification issue stands the question of political legitimacy to represent Darfurians. This has been a very complex and sensitive issue, mainly owing to the ethnic divide that characterizes most of the rebel movements. There seems to be a consensus among all the stakeholders that the leaders of JEM, whose constituency consists largely of Zaghawas, and the leaders of SLA/AW, whose followers are predominantly members of the Fur tribe, cannot speak for all Darfurians. The lack of a credible solution to this problem and the apparent unwillingness by these movement leaders to seek out and promote Darfurian leaders from civil society or from other socio-political structures is a further impediment to the political process.

357. The omnipresence of arms in Darfur, too many of them in the possession of non-State belligerent parties, deters the former counter-insurgency groups from disarming. As a consequence, all parties continue to believe in the armed struggle instead of engaging fully in the political process. The political process must therefore include the implementation of a realistic disarmament programme. It should also include monitoring of illegal armed movements across the Darfur-Chad and the Darfur-Kordofan borders.

358. The inability to define and establish security conditions that allow internally displaced persons and refugees to return to their original homes constitutes yet another obstacle to the political process. Some leaders of armed groups have used the lack of adequate security to refuse participation in mediation talks and all other conflict resolution efforts. Thus all aspects related to the return of internally displaced persons are now highly politicized. For example, some interlocutors have alleged to the Panel that the decision of the Government of the Sudan to expel certain international non-governmental organizations was an attempt to force internally displaced persons back to their home towns in order to project the impression that the Darfur crisis is over. Similarly, the Panel was often told how some leaders of armed movements are dissuading internally displaced persons and refugees from leaving the camps, citing security concerns. The politicization of the humanitarian plight of internally displaced persons and refugees and their eventual return is yet another impediment to progress in finding a political settlement to the crisis.

XI. Observations and recommendations

A. Observations

1. The lack of leadership and solutions

359. The suffering of Darfurians is ubiquitous and is the clearest testimony to the severity of the conflicts taking place in Darfur and to the ongoing and widespread violations of the provisions of the relevant Security Council resolutions. Most Darfurians are not involved in fights and are not supporters of the belligerents. They are innocent bystanders and victims who are in search of legitimate leaders, peace and security. Most importantly, they still are looking for solutions to their long-standing grievances and problems.

2. The need for a more comprehensive approach to the political process

360. As shown above, many impediments continue to disrupt the political process. Yet, there exists a real opportunity for the establishment of peace and security in Darfur which will pave the road, if the right steps are taken, for establishing the peace and security in the region also. Indeed, the fact that the Government of the Sudan and some rebel movements/groups have shown signs of willingness to accept a negotiated settlement of the crisis, as proven by their willingness to join in the talks, is in itself a positive sign. Although all the groups need to be involved for a comprehensive solution to be reached, the current willingness to negotiate of some movements and armed groups means that talks can proceed and can potentially create a momentum that may constitute an incentive to other, recalcitrant movements to join in the political process.

3. Due diligence practices

361. As is demonstrated in the present report, corporations and their control of the actions of those to whom they sell their products and services affect, directly or indirectly, the ability of all the belligerents in Darfur to engage in conflict. With their high dependence on "consumables", which include ammunition, fuel and vehicles, the combatants would find their fighting capacity severely curtailed if companies adopted more restrictive marketing and supply policies regarding the region. Such restrictive policies are best achieved through due diligence procedures that will help to prevent companies inadvertently supporting the embargo violations.

362. Corporations are expected to adhere to standards and norms that are aimed at minimizing the possibility of furthering war, violence and violations of human rights. Corporations' duty to respect human rights essentially means that corporate actors must not infringe on the rights of others. One minimal requirement is that corporations' norms and practices should not only be pegged to the most important legal instruments that protect internationally accepted human rights, such as the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, but should also put into practice a number of measures to ensure full compliance with those instruments. Three expectations have emerged in debates around corporate responsibilities. They are the need to:

- Periodically assess the risks and threats that a company and its products might cause to the rights of others

- Periodically assess whether laws and regulations whereby States ensure compliance with internationally accepted human rights are adequate or whether the State is defaulting on its obligations to protect human rights
- Periodically assess additional measures to enhance compliance with international human rights standards.

363. Inherent in the nature of a number of industries is a distinct potential for supplying, directly or indirectly, willingly or unwillingly, belligerent parties to the Darfur conflict. They are arms and ammunition manufacturers, manufacturers of 4x4 vehicles and heavy trucks, air and sea transportation companies, providers of communication services (telephone and e-mail) and website providers.

364. The Panel has conducted a case study with the aim of seeking opportunities for companies who may wish to enhance their compliance with the United Nations sanctions. It has identified companies and industries that have or have had in the past a significant economic relationship with actors involved in the Darfur crisis. Wherever possible the Panel engaged with these companies by inviting them to provide explanations regarding their enforcement of standards for ensuring compliance with the United Nations sanctions. In other cases, the Panel also asked for further information regarding specific transactions or events.

365. The answers to these questions serve now to demonstrate the level of transparency, accountability and cooperation with the United Nations sanctions that these companies are willing to deliver.

Table 7
Summary of statements and actions by companies

Company	*Date of request*	*Issue or question*	*Statements and actions by the company*
Antonov Aeronautical Scientific/Technical Complex	29/4/2009	1. Identify chain of ownership of a particular aeroplane	1. Antonov provided full information
		2. Description of relationship with Azza Transport Co. Ltd maintenance facility in Khartoum	2. Antonov denies having issued any licences to Sudanese entities, including Azza Transport
Azza Transport Co. Ltd, Khartoum	3/3/2009	1. Explain role in documented sanction violations	1. No reply
		2. Disclose management and ownership structure	2. No reply

Company	*Date of request*	*Issue or question*	*Statements and actions by the company*
China National Precision Machinery Import and Export Corporation (CPMIEC)	21/7/2009	1. Request for details of specific transactions involving certain arms and ammunition	1. No reply
		2. Inquiry about due diligence procedures for end-users and enforcement to avoid sanction violations	2. No reply
China North Industries Corporation (NORINCO)	21/7/2009	1. Request for details of specific transactions involving certain arms and ammunition	1. No reply
		2. Inquiry about due diligence procedures for end-users and enforcement to avoid sanction violations	2. No reply
China Xinshidai Company	21/7/2009	1. Request for specific transaction details involving certain arms and ammunition	1. No reply
		2. Inquiry about due diligence procedures for end-users and enforcement to avoid sanction violations	2. No reply
GIAD Automotive Industries Co. Ltd	22/7/2009	1. Inquiry about sales of third-party products or technology to SAF	1. No reply
		2. Request for disclosure of all vehicles transferred to SAF	2. No reply
Green Flag	16/3/2009	1. Explain role in documented sanction violations	1. No reply
		2. Disclose management and ownership structure	2. No reply
Hyundai	12/6/2009	1. Disclosure about affiliation with GIAD requested	1. No reply
		2. Disclosure about preventive provisions against sanction violations	2. No reply

Company	*Date of request*	*Issue or question*	*Statements and actions by the company*
MAN	29/6/2009	1. Tracing request for a specific vehicle documented in a militarized modification in Darfur	1. Full cooperation on tracing request
		2. Disclosure about preventive provisions against sanction violations in contract with GIAD	2. Full disclosure on business relationship with the Sudan and its Sudanese partner GIAD
Microsoft	4/8/2009	Assistance request regarding clients documented to be embargo violators	1. No conclusive reply
Nissan	15/6/2009	1. Disclosure about affiliation with GIAD requested	1. Full cooperation regarding affiliation with GIAD
		2. Disclosure about preventive provisions against sanction violations in contract with GIAD	2. Not applicable, since there is no contractual relationship
Renault	12/6/2009	1. Disclosure about affiliation with GIAD requested	1. Full cooperation regarding affiliation with GIAD
		2. Disclosure about preventive provisions against sanction violations in contract with GIAD	2. Not applicable, since there is no contractual relationship
Renault Trucks	12/6/2009	1. Disclosure about affiliation with GIAD requested	1. Limited disclosure due to lack of details
		2. Disclosure about preventive provisions against sanction violations in contract with GIAD	2. Limited disclosure due to lack of details about compliance provisions
Poly Technologies Inc.	21/7/2009	1. Request for specific transaction details involving certain arms and ammunition	1. No reply
		2. Inquiry about due diligence procedures for end-users and enforcement to avoid sanction violations	2. No reply

Company	*Date of request*	*Issue or question*	*Statements and actions by the company*
Toyota Motor Company	23/5/2008	1. Tracing assistance for vehicles documented as part of embargo violations	1. Provided full and timely answers for all tracing requests
	9/6/2009	2. Request for information about current due diligence standards for distributors	2. No exports to the Sudan except to international community, guards integrity of territorial exclusivity for each distributorship, and demands of all distributors that they respect all applicable laws

B. Recommendations

1. Reporting obligation of the Government of the Sudan

366. The Government of the Sudan has frequently shown unwillingness to cooperate with the Panel of Experts in the monitoring of Security Council sanctions. The Panel's assessment of compliance with all relevant Security Council resolutions shows that the Government of the Sudan has also failed to take the following action:

- Facilitating international relief for the humanitarian disaster by means of a moratorium on all restrictions that might hinder the provision of humanitarian assistance and access to the affected populations (paragraph 1 of resolution 1556 (2004))
- Advancing independent investigation in cooperation with the United Nations of violations of human rights and international humanitarian law (paragraph 1 of resolution 1556 (2004))
- Establishment of credible security conditions for the protection of the civilian population and humanitarian actors, (paragraph 1 of resolution 1556 (2004))
- Seeking approval in accordance with paragraph 7 of resolution 1591 (2005) for the transfer of troops and military materiel into Darfur
- Disarming all the Janjaweed militias and apprehending and bringing to justice Janjaweed leaders and their associates who have incited and carried out human rights and international humanitarian law violations and other atrocities (paragraph 6 of resolution 1556 (2004)).

367. There is an urgent need for an intensified effort on the part of the Security Council and the Committee aimed at securing the cooperation of the Government of the Sudan. As part of this effort, the Panel recommends that the Government of the Sudan be requested to report to the Committee on a bimonthly basis on:

- Its movements of troops and military materiel into and out of Darfur
- The identity and size of Darfurian tribes that must be disarmed, and to what degree they are disarmed and reintegrated into the population of Darfur
- Achievements in or possible requirements for enhancing the protection of all Darfurians located within the territory under the control of the Government of the Sudan

- Achievements or possible requirements for the better prevention of gender-based violence.

2. Support for Dakar Contact Group cross-border monitoring mechanism

368. The Panel has determined that the overwhelming majority of violent incidents in Darfur during the current mandate of the Panel of Experts have been the result of cross-border military and rebel activities, and that the tensions between the Sudan and Chad represent an increasing cause of instability in the region. The Dakar Contact Group has recognized this and is taking steps towards an improved presence along the Chadian-Sudanese border where MINURCAT has no monitoring mandate and UNAMID has been unable to fulfil its obligations under paragraph 9 of resolution 1769 (2007).

369. The Panel recommends that the Security Council explore possible ways to provide assistance to the Dakar Contact Group's cross-border monitoring activities, including by expanding the mandate of UNAMID, providing it with the necessary resources and taking account of issues of command and control.

3. Enhancing due diligence for corporations whose products and services potentially affect the conflict in Darfur

370. Modified behaviour on the part of the private sector could have a positive impact on the crisis in Darfur. While it is not reasonable to assign culpability to companies operating from places far removed from the violence and insecurity of Darfur, the present report documents how their products and services affect the ability of the belligerents to perpetrate violence in Darfur.

371. The role of dual-use products is not adequately addressed in the Security Council resolutions. The Panel's findings have shown that manufacturers and regional distributors of vehicles that have the potential for being transformed into "technicals" or other types of military and troop transporters; air cargo forwarders and aviation companies that operate cargo aircraft in the service of parties to the conflict; and even telecommunication services, could all impose stricter controls on their sales and marketing departments to avoid their products and services becoming elements in violations of the arms embargo and of international humanitarian and human rights law.

372. The Panel has identified substantial differences in the corporate philosophies of those private-sector entities whose products and services have been identified as playing a role in Darfur. Some companies have decided to refrain from any business with Sudanese partners while others appear to rely on very general directives designed to prevent sanctions violations. These differences do not contribute to conditions that foster peace and stability in Darfur and allow unfair competitive advantages to companies which practise minimal due diligence.

373. The Panel recommends that the Security Council include in a future resolution a call on the private sector to enhance and harmonize its current guidelines and a call on the Global Compact and relevant organizations to assist in the preparation of business conduct guidelines that better promote peace and security in Darfur and other areas of conflict.

Annex

Letter from Timan Erdimi to the Director of the Security Services

Translation

Republic of Chad

Union des forces de la résistance

Ref: Date: 04.15.09

Your Excellency, Director, of the Security Services,

In my own name, and on behalf of all the combatants of our movement, I would like to express my deep respect and feelings of gratefulness for all the support you have provided us and the efforts you exerted to give us material and moral support in order to help our cause and liberate our people from the dictatorship and despotism of Idriss Deby's regime.

We are honoured, Mr. Director to introduce this request to you, asking for your generosity, to provide us with the following equipment that we deem necessary in this particular moment, because it facilitates our movements and helps us achieve our mission.

It is also worth noting that I will dispatch my deputy, Adam Hassabalh Jad Al Rab, to hand this letter to Your Excellency. As my emissary, he will brief you on my behalf on the other details.

The required equipment is as follows:

– Vehicles	2,000
– SPG 9 ammunition	12,000
– 37 m ammunition	30,000
– RPG rockets	10,000
– Goronov machine guns	20,000
– 107 mm shells	4,800
– Doshka	

Finally, I would like to reiterate to Your Excellency my deep gratitude, with the hope that my request would be granted in an expedient manner due to the time constraints.

May God help you and protect you.

President of l'Union des forces de la résistance
Timan Erdimi

UNITE - PAIX - JUSTICE

REPUBLIQUE DE TCHAD — جمهورية تشاد

UNION DES FORCES DE LA RESISTANCE — إتحاد قوى المقاومة

Ref.: Date: 15.04.09

بسم الله الرحمن الرحيم

سعادة السيد مدير جهاز الأمن المحترم

تحية طيبة تحمل في طياتها آيات التقدير والاحترام

وبعد

يسعني الخاص واسم منتسبي الحركة أتقدم لحضراتكم الوفرة ولدولتكم العزيزة خالص الشكر والتقدير لوقوفكم معنا ولما بذلتموه من جهد كبير وما قدمتموه لنا من معينات ومساعدات مفيدة ومعنوية لإنجاح قضيتنا وتحرير شعبنا وبلادنا من دكتاتورية وفساد حكم إدريس الطاغية.

يشرفنا يا سعادة السيد المدير أن أتقدم إلي حضراتكم بهذا الطلب راجيا من سيادتكم الكريمة أن تمدونا بهذه المعدات التي نراها ضرورية في هذا الوقت بالذات لأنها تسهل لنا التحرك وتساعدنا في انجاز المهمة.

كما تجدر الذكر أنني سوف أرسل ثاني ادم حسب الله حاد الرب لتوصيل هذا الخطاب إلي سعادتكم والتحدث نيابة عني مع سعادتكم في باقي التفاصيل.

تتمثل هذه المعدات في الآتي:-

المعدة	العدد
-1 السيارات	2000
2- دانات ام بي جي 9	12000
3- دبابات 37م	30000
4- دانات اربي جي	10000
5- رشاشة جور ونوف	20000
6- دانات راجم 107م	4800
7- دوشكا	3000

وفي الختام لايسعني إلا أن أجدد شكري العميق لسعادتكم راجيا أن أجد منكم طلبي هذا القبول وسرعة التنفيذ نسبة لعامل الزمن الذي يداهمنا.

والله يحميكم ويثبت خطاكم ويصونكم من عوادي الدهر

رئيس الاتحاد قوى المقاومة

يتمان اردمي